United Nations S/2005/81

Security Council

Distr.: General
10 February 2005

Original: English

Letter dated 10 February 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council

I have the honour to transmit herewith the report of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo, containing an account of the Committee's activities from 12 March to 31 December 2004. The report, which was adopted by the Committee today, 10 February 2005, is being submitted in accordance with the note by the President of the Security Council of 29 March 1995 (S/1995/234).

(*Signed*) Abdallah **Baali**
Chairman
Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo

05-23510 (E) 140205

Annex

Report of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo

I. Introduction

1. The present report of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo covers the period from 12 March, when the Committee was established, to 31 December 2004.

2. For 2004, the Committee's bureau consisted of Abdallah Baali (Algeria) as Chairman, and the delegations of Benin and the Philippines as Vice-Chairmen (see S/2004/280).

II. Background

3. By paragraph 20 of resolution 1493 (2003) of 28 July 2003, the Security Council decided that all States, including the Democratic Republic of the Congo, should, for an initial period of 12 months, take the necessary measures to prevent the direct or indirect supply, sale or transfer, from their territories or by their nationals, or using their flag vessels or aircraft, of arms and any related materiel, and the provision of any assistance, advice or training related to military activities, to all foreign and Congolese armed groups and militias operating in the territory of North and South Kivu and of Ituri, and to groups not parties to the Global and All-Inclusive Agreement, in the Democratic Republic of the Congo. The Security Council renewed this arms embargo until 31 July 2005 by paragraph 2 of resolution 1552 (2004) of 27 July 2004.

4. On 12 March 2004 the Security Council, by resolution 1533 (2004), took note of the recommendations contained in the Secretary-General's fourteenth report on the United Nations Organization Mission in the Democratic Republic of the Congo (S/2003/1098). By paragraph 8 of the resolution, the Council established a sanctions committee to, inter alia, oversee and assess the implementation of the arms embargo imposed by paragraph 20 of resolution 1493 (2003) and renewed by paragraph 2 of resolution 1552 (2004).

5. By paragraph 10 of resolution 1533 (2004), the Council requested the Secretary-General, in consultation with the Committee, to create for a period expiring on 28 July 2004 a group of experts, consisting of no more than four members, to undertake a series of tasks related to the monitoring of the arms embargo, as set out in the resolution. The Group of Experts was appointed by the Secretary-General (see his letter to the President of the Security Council dated 21 April 2004 (S/2004/317)), and the Group submitted its first report on 15 July 2004 (S/2004/551). By paragraph 5 of resolution 1552 (2004) of 27 July 2004, the Security Council re-established the Group of Experts for a period expiring on 31 January 2005. The Group was reappointed by the Secretary-General (see his letters to the President of the Security Council dated 24 August and 21 September 2004 (S/2004/677 and S/2004/750)).

III. Summary of the activities of the Committee

6. During the reporting period, the Committee held one formal meeting on 5 May, and four informal meetings on 13, 20 and 22 July and 8 September 2004.

7. At its meeting on 5 May 2004, the Committee met with the Group of Experts established pursuant to paragraph 10 of resolution 1533 (2004) to discuss the Group's projected programme of work.

8. Upon the return of the Group of Experts to New York following the completion of their field assessment work, the Committee held informal consultations on 13, 20 and 22 July 2004 to discuss the draft report and recommendations of the Group.

9. In response to references to the Group's draft report that had begun to appear in the media, the Committee issued a press release on 22 July 2004, in which it stressed that the draft report was still under consideration by the Committee. The Committee also expressed its regret that the report had entered the public domain before its official publication and it further stressed that the contents of the report had been misrepresented in the media.

10. The Security Council considered the report of the Group of Experts on 26 July 2004, in the context of the Council's review of the arms embargo imposed by paragraph 20 of resolution 1493 (2003). On that occasion, the Chairman of the Committee commenced the review by delivering a statement summarizing the Committee's views on the report and recommendations of the Group of Experts.

11. At its informal consultations on 8 September 2004, the Committee met with the Group of Experts re-established pursuant to resolution 1552 (2004) to take stock of the follow-up action that had so far been taken in connection with the Group's previous recommendations, and to discuss the Group's projected programme of work under its new mandate.

12. By paragraph 9 of resolution 1533 (2004), the Security Council requested all States, in particular those in the region, to report to the Committee, by 12 May 2004, on the actions they had taken to implement the arms embargo imposed by paragraph 20 of resolution 1493 (2003). The members of the Committee authorized the Chairman to transmit a note verbale to all Member States, dated 14 May 2004, which recalled the relevant provisions of resolutions 1493 (2003) and 1533 (2004), and which also reminded States of the request for reports contained in resolution 1533 (2004). The Committee simultaneously authorized the Chairman to dispatch letters, dated 14 May 2004, to relevant States (Angola, Burundi, the Central African Republic, the Democratic Republic of the Congo, Kenya, Rwanda, the Sudan, Uganda, the United Republic of Tanzania and Zambia), requesting them, in accordance with paragraph 8 (a) of resolution 1533 (2004), to provide more specific information on the steps taken to implement the arms embargo.

13. During the reporting period, the Committee received replies from 35 States in response to the request contained in resolution 1533 (2004) (see appendix).

14. By paragraph 8 (e) of resolution 1533 (2004), the Security Council decided that the Committee would receive notifications in advance from States made under paragraph 21 of resolution 1493 (2003) (regarding exceptions to the arms embargo) and decide, if need be, upon any action to be taken. During the reporting period, the Committee received three such notifications (dated 22 April, 20 October and 8 December 2004) and the Committee decided to take no additional action.

Appendix

Replies received in accordance with paragraph 8 (a) of resolution 1533 (2004)

State or organization	*Date of communication*	*Symbol*
Argentina	10 May 2004	S/AC.43/2004/1
Ukraine	6 May 2004	S/AC.43/2004/2
European Union	12 May 2004	S/AC.43/2004/3
Ireland	12 May 2004	S/AC.43/2004/4
Egypt	13 May 2004	S/AC.43/2004/5
Brazil	13 May 2004 23 November 2004	S/AC.43/2004/6 S/AC.43/2004/6/Add.1
Sweden	17 May 2004	S/AC.43/2004/7
United Kingdom of Great Britain and Northern Ireland	11 May 2004	S/AC.43/2004/8
South Africa	18 May 2004	S/AC.43/2004/9
Russian Federation	20 May 2004	S/AC.43/2004/10
Mexico	20 May 2004	S/AC.43/2004/11
Slovakia	24 May 2004	S/AC.43/2004/12
Finland	24 May 2004	S/AC.43/2004/13
Belgium	26 May 2004	S/AC.43/2004/14
Costa Rica	1 June 2004	S/AC.43/2004/15
Austria	28 May 2004	S/AC.43/2004/16
Honduras	1 June 2004	S/AC.43/2004/17
Norway	8 June 2004	S/AC.43/2004/18
Syrian Arab Republic	9 June 2004	S/AC.43/2004/19
Japan	9 June 2004	S/AC.43/2004/20
Italy	10 June 2004	S/AC.43/2004/21
Moldova	11 June 2004	S/AC.43/2004/22
Switzerland	18 June 2004	S/AC.43/2004/23
Kuwait	14 June 2004	S/AC.43/2004/24
Jordan	16 June 2004	S/AC.43/2004/25

State or organization	*Date of communication*	*Symbol*
Argentina	22 June 2004	S/AC.43/2004/26
Cyprus	23 June 2004	S/AC.43/2004/27
Senegal	30 June 2004	S/AC.43/2004/28
United Arab Emirates	7 July 2004	S/AC.43/2004/29
Iceland	12 July 2004	S/AC.43/2004/30
Guyana	6 August 2004	S/AC.43/2004/31
Burkina Faso	19 August 2004	S/AC.43/2004/32
Mauritius	3 September 2004	S/AC.43/2004/33
Morocco	26 October 2004	S/AC.43/2004/34
Liechtenstein	15 December 2004	S/AC.43/2004/35

United Nations S/2005/82

Security Council

Distr.: General
11 February 2005
English
Original: French

Letter dated 10 February 2005 from the Secretary-General addressed to the President of the Security Council

I have the honour to refer to the Accra III Agreement on Côte d'Ivoire, adopted on 30 July 2004, to the statement by the President of the Security Council of 5 August 2004 (S/PRST/2004/29) and to my earlier letters transmitting to the President of the Security Council the reports of the Tripartite Monitoring Group established under the Accra III Agreement.

Please find attached the ninth and tenth reports of the Tripartite Monitoring Group, covering the periods from 1 to 17 December 2004 and from 18 December 2004 to 15 January 2005 (see annexes).

I should be grateful if you would bring this letter to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

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Annex I

[Original: English]

Implementation of the Accra III Agreement

Ninth report of the Monitoring Group

Covering the period from 1 to 17 December 2004

I. Introduction

1. The present report is prepared pursuant to the Accra III Agreement of 30 July 2004, which requested the Tripartite Monitoring Group to submit fortnightly reports on the situation in Côte d'Ivoire and on the progress made towards the implementation of the Accra III Agreement. This report covers major developments between 1 and 17 December 2004. In view of the impending seasonal and end of the year holidays, the second half of the month of December will be covered in the Tenth report which will issue for the first half of January 2005.

II. Overview

2. During the period under review, the overall situation in Côte d'Ivoire remained calm but tense in the aftermath of the armed attacks of early November. Heated and controversial debates persisted on the FANCI attacks code-named Operation Dignity, and on the response of the Licorne Force. There were daily echoes in the media of these events. The French Minister of Defence, Michele Alliot-Marie, confirmed that French troops had opened fire on civilians out of legitimate self-defence and in the context of their duty to protect civilians and evacuate foreign nationals from Abidjan. The Ivorian authorities called for an independent international inquiry into the events, in particular to determine the circumstances that led to the destruction of the entire equipment of the Ivorian National Air Force by the Licorne Forces. Daily media reports indicated the agitated mood of the public, incited by the Young Patriots movement.

3. On 10 December 2004, a decree was issued by President Gbagbo banning all demonstrations in Abidjan until 15 March 2005. This decision was taken after Charles Ble Goude, leader of the Young Patriots, had called upon his supporters for a series of mass demonstrations to demand the departure of the French troops.

4. Besides these continuing debates and reactions, the main impulse in national politics had been the impact of the African Union Facilitation Mission led by President Thabo Mbeki, the speculations over the sanctions regime decided under UN Security Council Resolution 1572 (2004) of 15 November 2004 and the looming general social ferment over the declining economic conditions and livelihood.

5. Nonetheless, it is worthy of note that during the period under review and beyond, there had been some positive developments in the peace process. The President, the Prime Minister, the political actors of all political formations, the members of the Government of National Reconciliation, and in

particular the President and deputies of the National Assembly had shown some political willingness to play their part to accelerate the process. It remained to be seen how the momentum would be sustained subsequently.

III. Developments in the peace process

The African Union Facilitation Mission

6. The African Union Mediator, President Thabo Mbeki, conducted his second mission to Côte d'Ivoire from 2 to 6 December 2004. President Mbeki mobilised a composite delegation to participate in his mission composed of certain South African officials and of some representatives of the Monitoring Committee, such as ECOWAS, AU, UNOCI, EU, the World Bank and IMF. In the course of his four-day mission, President Mbeki met several times with President Gbagbo, Prime Minister Seydou Diarra and Ministers of the Government of National Reconciliation, the President, the Bureau and major caucuses of the National Assembly, and all political forces. He then travelled to Bouake on 5 December 2004 to meet specifically with the Forces Nouvelles.

7. President Mbeki focused his presentation to and interaction with all the Ivorian parties on conveying a political message about the urgency of putting the peace process back on track in good faith. Experience so far gained in implementing the Linas-Marcoussis and Accra III Agreements had unfortunately revealed that the underlying obstacle to the peace process was the lack of mutual confidence and trust among the Ivorian parties and the absence of good faith in undertaking commitments.

8. Representatives of the World Bank and the IMF underscored the critical dimension ... the downturn of the Ivorian economy. This had tragic consequences for the country and adverse implications for the economic and political stability of the sub-region. The two financial institutions were ready to explore every means to assist Côte d'Ivoire as soon as they could receive assurance of the good faith and the sincere commitment of the Ivorian Government to the peace process as a sound basis for eventual economic recovery. These assurances were conveyed to the President, the Prime Minister and the Government during discussions with them.

9. In refining the method of presenting President Mbeki's proposals, it was agreed to formulate them in the context of a few clusters of central issues within a "**timeframe**" and not, as before, against a "**timetable**" of specific dates. The practice of setting specific dates had often led to controversy if there were any slip on implementation, as evidenced recently by the partisan reactions to the dates set under the Accra III Agreement. What follow are the broad outlines of measures proposed by President Mbeki and agreed by all Ivorian political actors under each of the five clusters of President Mbeki's mission.

i. The Legislative programme

The Government and the National Assembly agreed that the legislative programme as envisaged under the Linas-Marcoussis Agreement would be completed. The Government would forward

all outstanding legislative texts to the National Assembly for consideration. When the terms of texts adopted or planned were not in consonance with the letter and spirit of the Linas-Marcoussis Agreement, the Monitoring Committee would undertake to review and advise the National Assembly accordingly. The text of the amendment to Article 35, which was submitted to the National Assembly on 3 December 2004, was originally to be considered by the National Assembly at its extraordinary session in January 2005. However, on Tuesday 7 December 2004, the National Assembly decided to consider the text under a certificate of urgency. All other texts would be considered and completed by the end of the current session or in a relatively short space of time thereafter.

ii. DDR

All parties agreed that DDR should now be started and carried out in the context of the Agreement reached earlier in Yamoussoukro among the military Quadripartite Commission. Implementation would be the responsibility of the National Commission for the DDR (CNDDR) under the overall responsibility of the Prime Minister. Necessary consultations were under way to secure the required funding for the start-up. The Forces Nouvelles, however, insisted on the support of only UNOCI forces in the carrying out of the exercise in the zones under their control.

iii. Functioning of the Government of National Reconciliation

There was urgency in bringing back together all the Ministers of the Government. It was agreed that all the Ministers should return to their posts and work together as a team to ensure that the Government functioned properly and effectively. The Government should be enabled to work to implement its programme formulated in accordance with the Linas-Marcoussis Agreement and in conformity with the Decree on delegation of powers to the Prime Minister signed by President Laurent Gbagbo. However, the question of security had to be improved for the safety of Ministers. Other issues such as adequate resources available for the effective functioning of Ministers were to be addressed by the Prime Minister.

iv. Creating a climate conducive to free political activity and Functioning of State Institutions

There were a number of important measures agreed to enhance general security in society: joint patrols in Abidjan with FANCI and UNOCI forces; the "Young Patriots" to be encouraged to get off the streets; restoration of the regular management of the RTI; and an end to the hate campaign in the media.

v. Restoration of social services and redeployment of administration throughout the country

As an integral part of the objective of reunification, measures would be taken progressively to urgently restore social services (schools and hospitals) and public utilities such as water and

electricity. The breakdown of these services had been due partly to actions aimed at victimising the population in their support of the rebellion and partly due to lack of maintenance and to revenue deficits in the affected areas. The urgency of remedial action had reached serious health proportions and educational standards. Concomitant with the restoration of these services was the redeployment of administration and judiciary. Altogether, the benefits would result in the free movement of persons, goods and services and the progressive restoration of economic life in the zones under the control of the Forces Nouvelles.

10. All these measures agreed under the Programme of action, as indicated by President Mbeki, would now require more effective and proactive follow-up mechanisms of the Monitoring Committee (Linas-Marcoussis) and of the Tripartite Monitoring Group (Accra III). The task was left in the hands of the Monitoring mechanisms to face up to the new challenges.

11. During the course of the mission, the question was raised frequently about the increased role of UNOCI in its peacekeeping operations in Côte d'Ivoire. This is evident in the area of security – for protective custody, for the DDR and for the possible extended presence of UNOCI troops in the areas currently under the control of the Forces Nouvelles. These issues would need to be carefully worked out and assessed for realistic implementation within a new mandate and with additional resources. To accelerate the pace of the peace process, the role of the Monitoring Committee would require improvement in order to be proactive and more effective than hitherto.

Follow-up developments after the Mbeki Mission

12. At the initiative of the Prime Minister, meetings have been held between UNOCI, the Government of National Reconciliation and the National Defence and Security Forces (FDS) focusing on: (a) the security of Ministers; (b) the institution of Joint patrols; (c) the dismantling of the various checkpoints in Abidjan and; (d) the disarmament of militia and paramilitary units.

13. On the security of Ministers, there had been a review of the current arrangements (i.e. Government security forces taking charge of the residences, offices and movements of some 26 Ministers and UNOCI securing those of the 12 FN Ministers and officials). To address the new security needs following the November events, it was of utmost urgency to revamp existing security arrangements. These would include providing to the National Defence and Security Forces (a) enhanced logistics and additional staff complement; (b) improved training on close protection.

14. In this connection, UNOCI reported that the Secretary-General had recommended to the Security Council that its security response be upgraded, logistic and staff-wise.

15. Reducing the security risks to the seat of the Government, especially in Abidjan, was central to effectively addressing the other components of the Mbeki plan of action. Due to the inadequacy of resources and logistics of the Defense and Security Forces and the lack of coordination between the DSF and UNOCI, there was a feeling that if those impediments are not resolved in due course, the success of joint patrols could be jeopardized.

16. On the control of checkpoints, it was agreed that the current existence of numerous checkpoints was detrimental not only to the peace process but also to the reactivation of and recovery in economic activities. An implementation strategy would be drawn up that would build on: (a) the already existing Government (Army Chief of Staff) plan and; (b) the Joint Security Matrix agreed upon between the Government and the UN Security Management Team (UNSMT).

17. The Prime Minister has agreed that all efforts would be made to ensure that the Forces Nouvelles attend these technical consultative meetings. After review, the Minister of Security would make a presentation to the Council of Ministers in order to seek the Government's concurrence and effective support including the provision of adequate resources for the implementation of measures related to security.

18. Following President Mbeki's mission and at the request of the Secretary General of the Forces Nouvelles, a UNOCI team went to Bouake, on 14 December 2004, to (a) discuss DDR and security related matters, with the Forces Nouvelles, and seek their perspectives, (b) update the Forces Nouvelles on the DDR preparations and (c) agree on the way forward.

19. The UNOCI Team confirmed that funding would be secured for the initial phase of the DRR originally planned in the Eastern part of the country (Boundokou - Bouna) and that all measures would be taken to provide security for DDR sites and zones as planned in the Joint Operations Plan. It was emphasized that take-off of the DRR process would create momentum to further enhance confidence and secure resource mobilization for the subsequent phases of the DDR programme.

The Legislative Programme

20. On 6 December 2004, the National Assembly's Committee on Institutional and General Affairs unanimously adopted the text on the Legal Regime Governing the Press. On 7 December 2004, the same Committee adopted the text on the Legal Regime Governing the Audiovisual Media.

21. On 9 December 2004, the National Assembly at its Plenary Session adopted the Independent Electoral Commission Law. The RDR criticised the text because in their opinion, it did not reflect the spirit and letter of the Linas-Marcoussis Agreement.

22. The draft text on the amendment to Articles 35 and 55 of the Constitution was considered by the Committee on 10 December and adopted.

23. On 17 December 2004, the amendment to the Citizenship Code, the Special Law on Naturalization and the law consenting to a proposed amendment to Articles 35 and 55 of the Constitution by the National Assembly were adopted by the National Assembly in its Plenary Session. The organic law on the regulation of referenda in Côte d'Ivoire is slated for debate in Committee and passage in Plenary Session by the National Assembly by 23 December 2004. By the passage of these laws in the Assembly, all the legislative requirements stemming directly from the Linas-Marcoussis Agreement would have been completed by the legislature.

IV. Humanitarian and Human rights developments

24. It was reported that in the West and North of the country, local populations and humanitarian actors had suffered from a general lack of respect for international law by the belligerents and there was a general demand for reinforced security and protection, particularly within the Zone of Confidence. From recent assessment missions conducted in Guiglo, Korhogo, Bouake and Abidjan, some of the major concerns had been in the areas of protection, health and nutrition, water and sanitation and education. The latest events of November 2004 resulted in a new wave of displaced persons, internally and across borders. Assessment missions carried out by OCHA, UNICEF and WFP indicated that over 2500 internally displaced persons have been assembled in Prikro and Mbahiakro. There were also major concerns over the lack of food, clean water and sanitation. There had also been reports of an increasing number of IDPs coming to Abobo (in Abidjan) from Bouake.

V. Conclusion

25. In spite of misgivings raised by the events of November 2004, there has been remarkable progress in the implementation of the peace process by President Gbagbo and the National Assembly. These positive developments, should they be maintained, could be taken into consideration by the UN Security Council and by the AU Peace and Security Council, scheduled to meet on 10 January 2005.

26. As things currently stand, attention is focussing on the implementation of the next stages of the Linas-Marcoussis and Accra III Agreements. These are disarmament, the restoration of the territorial integrity of Côte d'Ivoire, and the redeployment of the civil service nationwide, thereby creating a conducive environment for unfettered progress towards free and fair elections in 2005.

Signed on behalf of the Group

(*Signed*) Ambassador Raph **Uwechue**
Chairman

17 December 2004

Annex II

[Original: English]

Implementation of the Accra III Agreement

Tenth report of the Monitoring Group

Covering the period from 18 December 2004 to 15 January 2005

I. Introduction

1. The present report is prepared pursuant to the Accra III Agreement of 30 July 2004, which requested the Tripartite Monitoring Group to submit fortnightly reports on the situation in Cote d'Ivoire and on the progress made towards the implementation of the Accra III Agreement. This report covers major developments between 18 December 2004 and 15 January 2005.

II. Overview

2. During the reporting period, the security situation remained relatively calm though still unpredictable. The situation in the Zone of confidence remained tense, especially in the West, where numerous ethnic clashes and crimes by armed groups were reported. Rumours of a coup d'etat fed wide speculations over the uneasy calm which had set into the general political situation during the festive period and New Year celebrations.

3. A three-week trial run of mixed patrols involving CIVPOL and the Ivorian Defence and Security Forces started operations on 22 December 2004 in various quarters of Abidjan. These arrangements had been agreed during consultations under the auspices of the Prime Minister, the Minister of Security and the Minister of Defence. These trial operations were to be reappraised in the light of experience on the ground. So far the experience appeared to be useful and effective in security management.

4. Elsewhere, the general political situation in this period had been dominated by the expectations of how the sanctions under Security Council Resolution 1572 (2004) of 15 November 2004 were going to be applied and felt in the country. Various political forces were quick in apportioning blame and trading accusations among themselves over the responsibilities for the obstacles in the peace process. They were equally eager to see the outcome of the Summit of the AU Peace and Security Council which was scheduled for 10 to 11 January 2005 in Libreville (Gabon). As the summit ended on 10 January 2005, President Mbeki continued his mission to Cote d'Ivoire for the day of 11 January 2005. Given the race against time, President Mbeki was only able to meet briefly with the President, the Prime Minister and members of the Council of Ministers. The Forces Nouvelles did not attend the meeting invoking their security concerns. Details and overall outcome of the Mbeki Mission are eagerly awaited.

III. Developments in the peace process

Changes in the RTI

5. On 24 December 2004, President Gbagbo signed a decree changing the present status of the RTI into a fully state-owned corporation. The decree also changed the composition of the Board of Directors. Out of its 12 members, seven would be nominated by the President. Oulaï Siene, an ex FPI Minister of Justice, was appointed Chairman of the Board. Following some protest, the former Managing Director, Kebe Yacouba, who had been relieved of his functions during the events of 4 November 2004, had in the second week of January 2005, been reinstated in his office. These changes caused concern in the opposition camp because they were seen to be attempts by the President to ensure a firm control over the media, contrary to the letter and spirit of Linas-Marcoussis which called for institutionalizing freedom of information under a new democratic dispensation. In that regard, the new changes in RTI were interpreted as contrary to the implementation of the Mbeki plan of action which aims at measures to ban the hate media and improve the overall environment for political security and institutional stability.

Council of Ministers

6. No Council of Ministers had been planned for the period under review as had been formally announced by the Government in view of the Christmas and New Year recess. However, on 11 January 2005, an emergency meeting of the Council of Ministers was convened in Yamoussoukro by the Prime Minister in consultation with the President to engage in discussions with President Mbeki following the Summit of the African Union Peace and Security Council in Libreville. The Forces Nouvelles Ministers, however, did not attend the meeting invoking security problems.

The African Union Facilitation Mission

7. The Peace and Security Council (PSC) of the African Union (AU) met at the level of Heads of State and Government, in Libreville, Gabon, on the 10 January 2005, to discuss the situations in Côte d'Ivoire, the Democratic Republic of Congo and the Darfur region of the Sudan. The deliberations of the Council on Côte d'Ivoire took place on the basis of the mediation mission undertaken, in the name of the AU, by President Thabo Mbeki of South Africa.

8. President Mbeki made a verbal report to the Council. He spoke of the various stages of his Mission on the basis of the framework of measures, his indicative Matrix of Actions and Timelines, which had received the broad support of all the Ivorian political actors. He gave a review of the four major clusters of issues on which implementation was needed. On the legislative programme, he welcomed progress made with the active cooperation of President Gbagbo and the President and deputies of the National Assembly. There were, however, reservations voiced by the opposition over the non-conformity of certain texts of legislation with the letter and spirit of the Linas-Marcoussis Agreement. These reservations, he hoped, could still be addressed with the assistance of the Monitoring Committee and the National Assembly. Of major significance was the text of the Amendment to Article 35 on eligibility to the Presidency. Whilst welcoming the prompt manner in

which the text was voted with overwhelming majority in the Assembly, there were still some seething concerns. President Mbeki felt that it was only by ensuring its final approval along the lines envisaged under the Linas-Marcoussis Agreement that the sensitive political controversy at the heart of the peace process could be resolved. Thus, as he pointed out, the issue was not just a mere recourse to the constitutional or legal requirement of a referendum. It was even more essentially, in the context of a resolution of the crisis, a question of bringing to bear political will and action to secure an outcome which would reflect the consensus at Linas-Marcoussis. More time would be needed to achieve these objectives in the context of the legislative programme.

9. On DDR, he acknowledged the serious difficulties ahead in securing agreement on how to start up the process. The current political climate and the deepening loss of mutual confidence between the belligerent forces required reinvigorated efforts at mediation and suasion. A revised timeframe would be required after due consultations.

10. On the question of the functioning of the Government, he recognized the efforts of the Prime Minister in the face of the hardened position of the Forces Nouvelles Ministers in returning into the Government. Efforts were being made with the assistance of ONUCI to give guarantees of security to the Ministers. On creating a climate conducive to the normal functioning of State institutions, here ONUCI was acknowledged for its cooperation with the Defence and Security Forces to enhance general security. Joint patrols were being undertaken. There had been some improvement in keeping the activities of the militants off the street. Unfortunately, reports of the restructuring of the RTI and the incidence of hate propaganda continued to give cause for much concern.

11. President Mbeki indicated his determination to continue his mission in Cote d'Ivoire to secure a good basis for the implementation of the peace agreements. He would proceed direct from Libreville to Cote d'Ivoire on Tuesday 11 January 2005 to meet with the Ivorian President, the Prime Minister, the Council of Ministers and all major political leaders, in particular the Forces Nouvelles.

12. President Laurent Gbagbo was invited to make a presentation to the Summit. He expressed his gratitude to the Council for authorizing the facilitation mission of President Mbeki. President Mbeki's Mission had been received in a full surge of political will and support. This augured well for the peace process which had therefore benefited from a lease of renewed momentum. On his part, President Gbagbo declared, he had lent full cooperation to implement President Mbeki's programme of measures and action. He had accelerated the adoption of the pertinent legislative texts, including in particular that on Article 35. Those which were yet to be considered were due to delays caused by the boycott or absence of certain opposition Ministers, especially those of the Forces Nouvelles. Nonetheless, President Gbagbo announced his intention to ensure that all the remaining legislative texts were considered and adopted by the National Assembly at its extraordinary session. To that end, there was need for an extension of time to the beginning of February 2005, as proposed by President Mbeki.

13. President Gbagbo stressed his disappointment over lack of progress on the DDR due to the vacillations of the Forces Nouvelles. He appealed to the Council to help him achieve this priority goal which would lead to territorial reunification and create conditions conducive to the holding of the

Presidential elections in October 2005. It was in the light of these objectives that he had accelerated the process of the parliamentary adoption of the text on Article 35. In the considered view of President Gbagbo, there was no alternative to resolving the issue of Article 35 except by the strict constitutional procedure of a referendum. Following certain protests, however, he had sought and was awaiting to receive the opinion of the Constitutional Council on this question.

14. On the range of other issues, President Gbagbo referred to measures taken on RTI where he had sought to establish a management of the media due to the recent military upheavals. He had, however, reinstated the former Managing Director of the RTI in response to certain remonstrances. President Gbagbo gave the assurance that he was looking forward to working further with President Mbeki to resolve any outstanding and contentious issues in the peace process. He did not fail to hark back on the recurring allegation that the obstacles to peace had been brought about primarily by the "rebels" the Forces Nouvelles who sought any pretext to shift the goal posts in the peace process.

15. In the exchanges at the Council, there emerged the following concerns over (i) Article 35 and the proposed referendum; (ii) the arms embargo decided by the UN Security Council; (iii) DDR; (iv) the political and security climate conducive to the implementation of the peace measures. President Gbagbo was urged by some leaders to avoid going to a referendum on Article 35 by promulgating the adopted text into law and in response to the calls for alternative options besides the strictly constitutional or legal approach. In any event, during the exchanges at the Council, there appeared to have been general concern over how to evolve a political approach to the issue.

16. On the arms embargo decided by the UN Security Council, the leaders sought assurances over how to monitor its observance and implementation. President Gbagbo declared that his Government was concerned over how to stop the flow of arms to the "rebels" coming especially from the Western and Northern frontiers of Cote d'Ivoire which shared borders with the zones under the control of the Forces Nouvelles.

17. As regards the impasse over the start-up of the DDR process, there was general concern over the continued refusal of the Forces Nouvelles. On the one hand, in spite of their legitimate concerns for security guarantees, they were to be urged to cooperate and be flexible in their approach. President Mbeki was urged to exert as much pressure as possible to ensure that the Forces Nouvelles were persuaded to begin the process as planned through the instrumentality of the CNDDR. On the other hand, President Gbagbo and FANCI were also being persuaded to play their part in creating conditions which would defuse the climate of deep mutual distrust among the protagonists and belligerents. The leaders were generally in support of the proposal by President Mbeki to negotiate and determine a new timeframe for the start-up of the DDR process.

18. On the general political and security environment, the leaders acknowledged the critical factor of confidence building through banning the hate media, the dismantling of the militias and fostering freedom of information and equal access of all to information throughout the national territory. These were considered as building blocks for a secure foundation of national reconciliation, tolerance and the observance of human rights.

19. The leaders acknowledged the increasing role of ONUCI in reinforcing security in accordance with its mandate. However none could escape the fact that ONUCI required new and additional resources to substantially increase its strength. A good beginning had already been made in the establishment of joint patrols with FANCI in parts of Abidjan and its suburbs. The immediate priority is to ensure reasonable conditions of safety for the resumption of the work of the Government of National Reconciliation.

20. Out of the exchanges, there was a general approval and endorsement of President Mbeki's Mission and his road map. He was given the latitude to continue his mission and to determine as far as he could go with changes in the timeframe for ensuring compliance with and implementation by all political actors of the Programme of Work. This had to do with the extension of time to enable advances in the legislative programme, the DDR, the effective resumption of the functioning of the Government of National Reconciliation and creating the climate and conditions conducive to the restoration of peace and stability in Cote d'Ivoire.

21. The terms of the agreed Final Communiqué issued at the end of the Summit (English and French versions hereto attached) reflect the foregoing general understanding among the leaders. The elements of the Communiqué take their central theme from the Mbeki Matrix or Plan of Action, with relevant details fleshing out what specific actions were called for to implement the road map to peace. Consequently, it must be carefully noted, paragraph 12 of the Communiqué requests the UN Security Council to defer the entry into force of individual sanctions envisaged under operative paragraphs 9 and 11 of Security Council Resolution 1572 (2004) of 15 November 2004 "to enable the Ivorian parties to provide proof of their willingness to implement the proposals" listed under the Mbeki Plan.

22. Mention should also be made of the proposal in the Communiqué, in its paragraph 15, which states as follows: "President Mbeki will be assisted by a Special Envoy of the Chairperson of the AU, the Monitoring Group established by the Accra III Agreement, ... as well as the AU Liaison Office in Abidjan, which should be strengthened accordingly...."

The Legislative Programme

23. On Monday 20 December 2004, the Commission on General Affairs and Institutions of the National Assembly unanimously adopted the draft organic legislative text relating to the organization of a referendum. Opposition deputies from PDCI, UDPCI and the Solidarity parliamentary groups, however, questioned the rationale of examining this draft text in view of their underlying reservations over the principle or political necessity of holding a referendum on Article 35. According to the opposition, the adoption of this draft text was not urgent and there were other important issues to be addressed such as the reunification of the country and the identification process. On 23 December 2004, the National Assembly rejected the draft text by a vote of 108 with 89 abstentions and one invalid ballot. However, according to the Ivorian Constitution, the draft legislative text relating to the organization of a referendum could be resubmitted within a period of three months.

Functioning of the Government of National Reconciliation

24. In the period under review, it had not been possible to persuade the Ministers of Forces Nouvelles to return to Government, in spite of the tireless efforts of the Prime Minister. Among the reasons advanced for their refusal, the Forces Nouvelles insisted on full-proof guarantees for their security in Abidjan.

IV. Conclusion

25. Following the outcome of the Summit of the AU Peace and Security Council and the most recent segment of the Mbeki Mission to Cote d'Ivoire on 11 January 2005, all eyes are on President Mbeki to continue his talks, fix the new timeframes for the implementation of the legislative programme, the DDR, and for the African Union to forward his report to the Secretary-General and the Security Council on the deferment of the individual sanctions to be determined by the latter. At this stage, the success of the Mbeki Mission will largely depend on how long into the immediate future, he would enjoy the grace period for his mission from the Ivorian political stakeholders, still jockeying for advantageous positions, *vis-à-vis* the impending elections. In this particularly delicate and onerous task, President Mbeki deserves the full and sustained support of the international community, for the effective implementation of the Peace Plan.

Signed on behalf of the Group

(*Signed*) Ambassador Raph **Uwechue**
Chairman

15 January 2005

United Nations S/2005/83

Security Council

Distr.: General
15 February 2005

Original: English

Letter dated 14 February 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities addressed to the President of the Security Council

In accordance with paragraph 8 of Security Council resolution 1526 (2004), I have the honour to transmit herewith the second report of the Analytical Support and Sanctions Monitoring Team established pursuant to that resolution. Currently, the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities is considering the recommendations contained in the report with a view to improving the established sanctions measures and their implementation.

I should be grateful if the attached report could be brought to the attention of the Council members and issued as a Security Council document as soon as possible.

(*Signed*) César **Mayoral**
Chairman
Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

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Annex

Letter dated 15 December 2004 from the Coordinator of the Analytical Support and Sanctions Monitoring Team established pursuant to resolution 1526 (2004) addressed to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

The Analytical Support and Sanctions Monitoring Team established pursuant to Security Council resolution 1526 (2004) concerning Al-Qaida and the Taliban and associated individuals and entities has the honour to transmit to you its second report in accordance with paragraph 8 of that resolution.

(*Signed*) Richard **Barrett**
Coordinator

Second report of the Analytical Support and Sanctions Monitoring Team appointed pursuant to resolution 1526 (2004) concerning Al-Qaida and the Taliban and associated individuals and entities

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I. Executive summary

1. Throughout the present report, the Monitoring Team addresses two fundamental issues: first, the extent of global implementation of the Al-Qaida and Taliban sanctions; and, second, whether and how the sanctions measures can and should be improved.

2. The Team sees no let-up in the determination of Al-Qaida, the Taliban and their associates to continue their campaign of terror. It sees Al-Qaida continuing to spread its message to all parts of the world, and a further escalation in terms of the brutality of attacks. It believes that the need for international cooperation against this menace is as great as ever. Although the Team's focus is to examine the implementation of existing sanctions, it notes that by themselves they can only hope to limit Al-Qaida activity, not to end it.

3. The Team regards the Consolidated List as the basis of the sanctions programme. It sees its credibility and relevance as essential to Member States' compliance. The Team believes that by encouraging more States to contribute information or names to the List, the Committee will encourage a wider sense of ownership. Further improvements to existing entries and to the format of the List will also serve to make it easier and more attractive to use. The Team argues that it should be authorized to do more to support the Committee in dealing with States on issues to do with the List, including de-listing.

4. The Team draws on its assessment of Member States' reports pursuant to previous Security Council resolutions as well as other evidence and suggests a list of specific criteria that, among other factors, it intends to use to measure compliance and implementation efforts at the national level. The Team proposes various strategies to enhance implementation, including that the Security Council ask States to complete a brief compliance checklist after each additional listing.

5. The assets freeze is perhaps the most implemented of the sanctions on a global scale, and it may constitute the most effective mechanism to prevent large-scale terrorist operations. Member States generally have instituted the necessary reforms to their official banking systems to prevent listed parties from receiving or transferring money, but there are many unofficial ways available to circumvent these restrictions. Cash couriers, alternative remittance systems and charities can all be exploited to finance terrorism, and the challenge for the international community lies in finding a proper balance between restricting the flow of money to terrorists and allowing legitimate transactions to continue freely.

6. In terms of the arms embargo, the Team believes the world community has, in some senses, been the victim of its own success. Embargoes on military-style weapons and arms may have impeded terrorists from obtaining them, but this has not stopped attacks, whether with smaller armaments or commonly available materials that can be transformed — via information widely available on the Internet — into instruments capable of inflicting mass casualties. The Team considers three areas for action: man-portable anti-aircraft missile systems, commercially available materials that can be turned into explosives and weapons of mass destruction.

7. The travel ban presents an apparent paradox. It may be viewed as a success in that no Member State has reported any violation; but at the same time, it is unlikely

that no listed individual crossed a national border in the three years since it was enacted. The Team suggests a need to refine and clarify the ban to deal with overt attempts by those listed to travel, and offers new initiatives to prevent covert travel. The Team has discussed these topics with Interpol, among others, and believes that the time is ripe for a joint partnership between the United Nations and Interpol on matters of common concern, including stolen, lost and fraudulent travel documents, international arrest warrants and additional information on listed persons that Interpol might possess.

8. The report concludes with a series of annexes containing additional case studies, summaries of sanctions-related litigation and other supplementary information.

II. Introduction

9. In its first report (S/2004/679), the Monitoring Team observed that the sanctions imposed by the Security Council had lost some of their effect because the nature of the threat from the Taliban and Al-Qaida had changed. The threat continues to evolve as Al-Qaida increasingly represents an idea of violent opposition to a whole range of local and global circumstances rather than a coherent group with fixed goals. In the last four months the world has seen further appalling acts of terrorism. Violence and intimidation against civilians have shown abhorrent brutality, but inevitably, even the most horrific images have lost their edge and shock value as the acts of barbarism are repeated. And as they are repeated, they have become the new standard, and have been adopted as everyday weapons in the arsenal of the wider group of extremists who seek to bring about political change by these means. Whatever the images that linger longest in the minds of those not directly affected, each attack has brought with it the same tragedy for the victims and their families.

10. A constant backdrop has been the situation in Iraq. Events there have favoured Al-Qaida, if only through the propaganda value of its recent attacks. But whatever the situation in Iraq, Al-Qaida's global terrorism will continue and will remain a challenge to all States, with no State being able merely to depend on another to provide it with the necessary security and protection. The Al-Qaida message is now very widespread; but however much terrorism has increased, it is still the resort of the few. It continues to attract those with a lack of understanding of the holy religion of Islam or those who deliberately misrepresent its teachings.

11. Building on the appeal of its message, Al-Qaida is actively seeking new areas in which to expand, both to recruit and to base itself. It aims to radicalize Muslim communities through propaganda and to create and exploit a sense of injustice, whether political, social or economic. For example, the arrest in July 2004 of Ahmed Khalfan Ghailani[1] revealed that as a follow-up to Osama bin Laden's February 2003 broadcast appealing to Muslims in Nigeria, Jordan, Morocco, Pakistan, Saudi Arabia and Yemen to follow his path, Al-Qaida recruiters were sent to northern Nigeria to establish a presence there. Not far to the north, in September 2003 the listed Groupe Salafiste pour la Predication et Combat made a public

[1] Placed on the Consolidated List of Al-Qaida, the Taliban and their associates on 17 October 2001 and suspected of involvement in the Nairobi and Dar es Salaam bombings of 1998.

announcement of its affiliation with Al-Qaida to allow it to seek bases in the poorly policed areas of sub-Saharan Africa. Also listed, the al-Itihaad al-Islamiya in East Africa seems to regard communities in Somalia, Uganda and the United Republic of Tanzania as vulnerable to its ideology. But it would be wrong to limit concern merely to a part of Africa; Al-Qaida and its affiliates seek to establish themselves and grow in all parts of the world.

12. Despite much evidence of continued terrorist success, there has also been success against terrorism. For example, the capture in Pakistan of Mohamed Naim Noor Khan in July 2004 provided a wealth of information that has helped security forces to understand the methodology of the Al-Qaida networks and related groups, as well as provide warning of their possible targets. But the information collected continues to suggest that the problem is even bigger than previously thought. So too does the evidence from plots that have been successfully uncovered and stopped around the world. For example, the attack planned on the Jordanian security headquarters in Amman in April 2004 would have caused massive casualties, both through the initial explosion and through the planned release of noxious gases.[2] Other major plots thwarted elsewhere in the world appear to have been close to execution when discovered and tend to support the oft-repeated view of professional counter-terrorism operatives that it is only a matter of time before another major attack occurs.

13. The Monitoring Team continues to believe therefore that it is essential that all States not only build their capacity to combat terrorism, and help others to do so, but actively engage in international efforts to bear down on the terrorists themselves. This means endorsing the objectives of sanctions, ensuring their implementation and contributing to efforts to make them more effective.

14. The Taliban, while unable to undermine the October presidential elections in Afghanistan, continue to threaten the stability and reconstruction of the country. Their determination to recover lost ground, both physically and politically, is undiminished. The United Nations Office on Drugs and Crime has reported that opium production in Afghanistan recorded a 64 per cent rise in poppy cultivation, which now occurs in all 32 provinces, involves 10 per cent of the population and with an export value of $2.8 billion, equated to some 60 per cent of the gross domestic product for 2003. One can assume therefore that the Taliban will not suffer from a lack of money, nor from a lack of support from those warlords who have no interest in seeing President Karzai achieve his objective of eradicating drug production from the country.

15. Although it appears that the operational link between the Taliban and Al-Qaida has been weakened by the action of the Pakistani armed forces in the border area, which has pinned down foreign fighters, killed or captured many and driven others away; and although Al-Qaida, at least for the present, may lack the resources to mount any significant offensive in support of its Taliban allies, there is no doubt that Al-Qaida leaders still see Afghanistan as an important front. The Taliban themselves will also want to show that while they had little impact on the Presidential elections, and although they no longer present a convincingly coherent leadership, they retain their strength. The attacks in Kabul immediately after the election, and the kidnapping in October 2004 of three United Nations election workers, apparently by

[2] Jordanian official briefing of the Monitoring Team provided detailed evidence of the device.

a Taliban group calling itself Jaish e Muslimeen, were deliberate demonstrations of this.

16. The Secretary-General's High-level Panel on Threats, Challenges and Change asserted in its December 2004 report that "sanctions against Al-Qaida and the Taliban suffer from lagging support and implementation by Member States and affect only a small subset of known Al-Qaida operatives" (A/59/565, para. 153). The Monitoring Team, based on its own experience, does not fully agree. Few Member States question the validity or importance of Security Council work against Al-Qaida and the Taliban, and the level of support for the sanctions remains steady. Where difficulties with implementation exist, they have more to do with the lack of capacity than the lack of will. But there has been criticism of the Consolidated List. Although the List, on which the sanctions regime depends, cannot be an exhaustive compendium of all Al-Qaida associates, many Member States do not find it the useful tool it should be.

17. To address this criticism, and attempt to increase the support of Member States, the Monitoring Team has worked with certain States to ensure that the List provides a broader reflection of the threat and that it is more accurate. The Monitoring Team also suggests that it should promote more proactively the dialogue between Member States and the Committee established under resolution 1267 (1999). This can be done by convening regional meetings and by engaging States individually, both to get their help with the List and to have their ideas on how the sanctions regime might be further refined to deal with the threat as it affects them. The Committee has repeatedly urged States to help it develop a broader and deeper engagement with the international community, and the Monitoring Team sees itself as an appropriate mechanism to help achieve this.

18. In addition to promoting the implementation of the sanctions regime against those listed by the Committee as members or associates of Al-Qaida and the Taliban, the Team has been looking at the problem of radicalization. There appears to be no reduction in the number of people finding inspiration from the message promoted by Al-Qaida, and a growing acceptance that violence is not only an acceptable means to the achievement of its goals, but an inevitable one. A principal means by which people are being diverted onto a terrorist path is the Internet, through which they are offered facile solutions to complex problems and are seduced by ideas of martyrdom and glory. The Monitoring Team believes that the Security Council should begin to consider the difficult issues associated with stemming the distribution of extremist material inciting to violence.

19. Since the Team last reported, the Security Council has adopted resolution 1566 (2004) which will have particular bearing on the work of the Committee. The resolution establishes a working group that has the opportunity to shape the future direction of the United Nations effort against terrorism, and the Team looks forward to participating in its deliberations, should this be deemed appropriate. The Team also looks forward to working with the Committee established under resolution 1540 (2004), and its experts once appointed, on the threat from terrorist use of weapons of mass destruction. To quote Hans Blix, former Secretary-General of the International Atomic Energy Agency: "The international community has a right to expect that Governments will prevent use of their territory as a base for terrorists to

develop weapons of mass destruction capabilities or launch attacks."[3] This issue, about which the High-level Panel has also commented (A/59/565, paras. 112-115), is dealt with below.

20. There has been a good deal of international activity beyond the United Nations, and a new Financial Action Task Force (FATF) recommendation on cash couriers has further persuaded the Monitoring Team that work on combating the financing of terrorism has a momentum and seriousness that now may need less input from the Security Council beyond endorsement and encouragement. The more obvious work is well in hand and the design of effective further measures will present some real challenges and require much international discussion. Nonetheless, the Team makes some additional recommendations later in the present report.

21. The High-level Panel also commented that there was a "crucial need, in relation to States in the regions from which terrorists originate, ... to address not only their capacity but their will to fight terror" (A/59/565, para. 147). While this may be true in some areas, the Monitoring Team has found a firm commitment among Arab States to act against Al-Qaida terrorism. Real progress has been made and a clear understanding reached that the national threat cannot be divorced from the international threat, and so requires cooperation with other States and international bodies, including the Security Council, to defeat it.

22. To foster this cooperation at the operational level, and to ensure that the sanctions regime and other international efforts remain relevant and support the work done nationally, the Monitoring Team convened a meeting of senior officials from the intelligence and security services of five Arab States[4] that have developed a particular understanding of Al-Qaida-related terrorism. As well as providing the Team with valuable ideas for its future work, the meeting demonstrated a shared enthusiasm among these States to work closely with the Security Council through the Committee and the Monitoring Team. Further details of this meeting are given later in the present report.

III. Background

23. Sanctions against Al-Qaida and the Taliban have their origin in Security Council resolution 1267 (1999), by which the Council required Member States to impose sanctions on members of the Taliban to be designated by a Committee of the Security Council (the 1267 Committee). In subsequent decisions,[5] culminating in resolution 1390 (2002), the Council modified the targets of the sanctions to include Al-Qaida and its associates. In resolution 1390 (2002), the Council outlined three principal measures: an asset freeze (and related financial measures), an arms embargo and a travel ban. These resolutions, and others passed since then — such as 1452 (2002), 1455 (2003) and 1526 (2004) — form the foundation of the current Al-Qaida and Taliban sanctions regime.

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[3] Article written with Wade Huntly in *The Globe and Mail* (Toronto), 11 November 2004, p. A19.

[4] Egypt, Jordan, the Libyan Arab Jamahiriya, Morocco and Yemen. Saudi Arabia was unable to be represented.

[5] Resolutions 1333 (2000) and 1363 (2001).

24. The Security Council established the present Monitoring Team by resolution 1526 (2004), in which it outlined the various duties of the Team, including to assess, monitor and make recommendations regarding implementation of the sanctions measures. The Council called upon the Team to supply the Committee with "comprehensive, independent reports" on "implementation by States of the measures" and to offer "concrete recommendations for improved implementation of the measures and possible new measures".[6]

25. The Team submitted its first report to the Committee on 31 July 2004 (S/2004/679). The present report is the Team's second report. The third report is due by 30 June 2005.

26. The Team's report follows on the heels of the report issued by the High-level Panel on Threats, Challenges and Change appointed by the Secretary-General (A/59/565). Although the mandate of the High-level Panel with regard to terrorism extended well beyond the implementation of the United Nations sanctions against Al-Qaida, the Taliban and their associates, its conclusions largely coincide with those of the Team so far as this form of terrorism is concerned. It is hardly surprising that the Panel and Team agree that:

(a) Terrorism involving Al-Qaida and weapons of mass destruction remains among the paramount global threats, highlighting the importance of multilateral cooperation in this area (A/59/565, paras. 24, 25 and 146);

(b) States should become party to all 12 international conventions against terrorism (ibid., para. 150);

(c) States should adopt the eight (now nine) special recommendations on terrorist financing issued by FATF (ibid., para. 150);[7]

(d) The Council should examine measures to ensure compliance where States have the capacity to undertake their United Nations obligations, but repeatedly fail to do so (ibid., para. 156).

27. The Panel's recommendation that the Committee create (and/or revise) its process for reviewing cases of individuals and entities claiming to have been wrongly placed or retained on its List[8] is dealt with in paragraphs 53 to 60 below.

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[6] A previous monitoring panel issued a series of reports from January 2002 to December 2003. The Team reviewed those documents and considered the conclusions contained therein.

[7] On 22 October 2004, FATF issued a ninth special recommendation involving cash couriers, which the Team also endorses. See paras. 73-76 below and the FATF web site, www1.oecd.org/fatf/pdf/SRO9_en.pdf.

[8] A/59/565, para. 152. The High-level Panel may have been misinformed when it suggested that "the Al-Qaida and Taliban Sanctions Committee should institute a process for reviewing the cases of individuals and institutions claiming to have been wrongly placed or retained on its watch lists". The Committee has, since 2002, included within its guidelines a procedure allowing individuals or entities to seek their de-listing (see Guidelines of the Committee for the Conduct of its Work, sect. 7, as adopted on 7 November 2002 and amended on 10 April 2003). Yet the Committee has not indicated explicitly that its guidelines apply to those wrongly "retained" on the List, as opposed to those wrongly "placed" on it, a step the Team believes is necessary to ensure increased Member State participation in the listing process. For more details, see paras. 53-60 below.

IV. Consolidated List

28. The Consolidated List continues to serve as the foundation for the implementation and enforcement of the Al-Qaida/Taliban sanctions. It is also a source of some of the problems associated with them. The Team believes that the List should be a live document subject to frequent change in order to reflect the changing nature of the threat, and should receive additions from a wide variety of States. The Team is confident this can be achieved with relatively little effort, and sees itself playing a central role.

A. Overview

29. Since January 2004, the Committee has added 26 individuals and 15 entities to the Consolidated List as belonging to or associated with Al-Qaida. No name was added to the Taliban section. There are currently 289 Al-Qaida-related names on the List out of the total 433 entries. No name has been removed from the List in the past year.

30. The additions to the List in 2004 reflected both the broad geographic spread of Al-Qaida and its associates, and the variety of their activities; these included the kidnapping and murder of civilians, as well as the provision of funding, trafficking in arms, supply of fraudulent travel documents and recruitment for terrorist training camps.[9]

B. Scope of the Consolidated List

31. Since the initial sanctions against the Taliban, the Consolidated List has evolved to include Osama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them.[10] Member States have asked the Monitoring Team how they should interpret "associated with", and while recognizing that this is a matter for the Council and the Committee, the Team offers the following general recommendations.

32. The Team suggests that the Council and the Committee remind States that "association" is an essential precondition of listing and offer some guidelines as to its meaning. The Team proposes that the Council and the Committee urge States to interpret the "associated with" language broadly in submitting names, leaving it up to the Committee ultimately to ensure that each case fits within the scope of the sanctions programme. Indeed, the Team further recommends that, as an example, the Council and the Committee explicitly inform States that facilitators of Al-Qaida and Taliban activity should be added to the Consolidated List. The Team also suggests that the Committee encourage States to consult the Team prior to submitting a name if they are in doubt as to its likely acceptance for an informal view of what level of facilitation or other support may constitute association.

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[9] The information provided in this subsection of the report was obtained from material provided by Member States and in United Nations press releases.

[10] Resolution 1390 (2002), para. 2, and resolution 1526 (2004) para. 1.

C. Changes to the List

33. While the List is constantly achieving greater relevance and accuracy, the Team has suggestions for further improvement and impact.

1. Additional or clarifying identifiers

34. Many Member States have pointed out that a significant number of names on the List have insufficient identifiers to allow proper enforcement of the sanctions. Many States report that some names are simply inadequate to permit any action, and others so lacking in specific detail that many innocent people would be caught up if sanctions were applied against them. It follows that without additional information being added to the List, a substantial number of listed persons will continue to operate freely, circulating money, travelling the globe and able to commit or support terrorist acts.

35. The Monitoring Team has been able to provide the Committee with 142 pieces of additional information on 63 entries on the List, based on information provided by nine States in their reports pursuant to resolution 1455 (2003)[11] and by 22 States that responded to letters sent by the Team. More information continues to arrive. In addition, Egypt, Jordan, the Libyan Arab Jamahiriya, Morocco and Yemen, as well as the United States Department of the Treasury, have recently undertaken to review some of the deficient names on the List, and these Governments have agreed to communicate with the Committee, where appropriate, when additional relevant information is located. The Committee and the Council should encourage other States to join this multinational effort.

36. With the Committee's concurrence, the Team also proposes to take a more proactive approach to updating the List. Rather than submit information only where States have supplied it, the Team intends to begin working directly and intensively with some States and international organizations (such as Interpol)[12] to acquire and confirm relevant data that could be added to the List. The Team also proposes to recommend certain technical corrections, for example to mistakes in transliteration.

2. Additional names

37. As stated above, the Team does not believe that the List need be an exhaustive compendium of everyone known to belong to, or be associated with, Al-Qaida and the Taliban. But it believes that the List can better reflect an international consensus on which Al-Qaida/Taliban associates present the main threat. The Team believes strongly that a wider cross section of States should submit names for inclusion on the List in order to promote greater relevance, deeper engagement and wider acceptability of the sanctions regime, and as a critical component of the process of increasing States' participation and cooperation.

38. The Monitoring Team has engaged several Member States on this issue who have not so far contributed to the List, and one has already submitted names for inclusion, with three others assuring the Team that they are about to do so. These

[11] Algeria, Belgium, Bosnia and Herzegovina, Egypt, Indonesia, Lebanon, the Libyan Arab Jamahiriya, the Philippines and the Russian Federation provided such information in their reports submitted pursuant to resolution 1455 (2003).

[12] For more information about the initiative with Interpol, see paras. 138-142 below.

Member States have sought the Team's assistance in preparing their submissions and the Monitoring Team recommends that the Committee authorize it to take on this role as a matter of course.

39. As well as encouraging States to take the initiative in submitting the names of those Al-Qaida associates they see as most threatening to their national interests, the Team proposes that, with the approval of the Committee, it approach States itself, whether to seek further particulars in support of other submissions, or to encourage the State to submit names on its own account. The Monitoring Team believes that it can provide a flexible and responsive mechanism to facilitate the submission of new information to update the List and encourage greater interaction between the Committee and Member States. The Team invites the Committee to endorse this approach.

3. Change in format

40. The Team believes that there is a minor change to the structure of the List that would help States and non-State actors (such as banks) to perform their duties more effectively. The Team proposes that each name on the List be designated with a permanent number for ease of reference. Under the current system, the List is divided into five sections with each section arranged in alphabetical order, but because of its overall structure it can be difficult to locate specific persons.[13] Although the List currently includes numbers next to the names, those numbers change every time a new entry is made because the new name is inserted based upon alphabetical order.[14] This has caused confusion because States, in referring to an entry on the List, have generally cited the number assigned to the individual or entity at that time. Use of a permanent number would also overcome the problems caused by States using different spellings or aliases when referring to someone on the List. It would also help the Secretariat to highlight recent additions or changes when it circulates the updated List every three months, as required by resolution 1526 (2004).

D. Circulation of the List

41. The Team is conscious of the need to circulate additions and updates to the List in a timely fashion and is aware that for a variety of reasons this does not happen. Having consulted the Secretariat, it believes that in order to speed up existing procedures States should be encouraged to accept notification of changes by e-mail in addition to the hard copy now sent, and accept this e-mail as proof of listing.[15] States should also be encouraged to send the listing information to banks

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[13] The List identifies persons in the order their names might typically appear in a passport, namely, first name, then father's name, then grandfather's name and, finally, family name.

[14] Perhaps there is no better example of this than the results of the Committee's recent amendments to the listings of 63 parties. The United Nations press release shows the numeric change of the listings, including, among the dozens of examples, the former number 7 changing to number 119; the former number 11 becoming 79; and the former number 17 now appearing as 146 (SC/8259).

[15] States should be able to accept this electronic version as proof of listing, particularly because they always can access the official List via the Internet. See www.un.org/Docs/sc/committees/1267/1267ListEng.htm.

and other financial institutions,[16] among others,[17] as well as to border points, consulates, customs agents, intelligence agencies, alternative remittance systems and charities.

V. Implementation of the sanctions

42. However well designed, the impact of any sanctions regime depends on its effective implementation by Member States. While this report comments on Member State compliance in the sections that deal with the specific aspects of the Al-Qaida and Taliban sanctions regime, two general issues warrant attention. The first is how the Council, the Committee and the Monitoring Team should assess compliance by individual States, and the second is what measures the Council might enact to ensure the greatest level of compliance possible. The Team also examines current legal challenges and other issues regarding the sanctions.

A. Assessing the compliance of Member States

43. The Monitoring Team recognizes the difficulty of making a thorough independent assessment of compliance by all 191 Member States; even to do so for one would require considerable effort by the Team and full cooperation from the State concerned. It was for that reason that resolutions 1390 (2002) and 1455 (2003) required States to submit their own reports on their implementation of the Al-Qaida and Taliban sanctions. In the nearly two years since then 133 Member States have submitted reports, which, considered together, provide encouraging news about the status of global implementation.[18] The overwhelming majority of reporting States acknowledges the value of the Consolidated List as the basis of the sanctions, and all claim to have incorporated it into their legal systems. Most claim to circulate it appropriately to banks, ports of entry and other relevant national authorities.

44. Yet, the news from these reports was not all good. Approximately 30 per cent of Member States (58 out of 191) have not submitted a report, and many of those States that did respond failed to include sufficient detail to permit a thorough assessment of their sanctions regimes. More Member States need to be persuaded to circulate the relevant names on the List to entities outside the traditional banking systems, and to increase their regulation of non-banking financial institutions and operations. And, with respect to the travel ban and arms embargo, although States claimed to be enforcing the sanctions, their reports generally provided insufficient substantive detail to allow the Monitoring Team to make an independent assessment of their claims.

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[16] Examples of non-banking financial institutions to which the List should be transmitted include pension, insurance and financial leasing companies, foreign exchange bureaux, money transmitters, securities firms and credit unions.

[17] Apart from the financial institutions arena, the Team believes the List also should be sent to other types of businesses and professionals, such as accountants, attorneys, trust administrators, business registrars, financial advisers, precious commodities dealers and real estate, tax and travel agents.

[18] For more information about these reports, see the Committee's report on them (pending) which attaches the Team's assessment of the 131 reports submitted by 15 October 2004.

45. In analysing these reports (or the fact of non-reporting), the Monitoring Team must assess the overall level of an individual Member States' compliance. To facilitate this, and working closely with the Counter-Terrorism Committee Executive Directorate and other relevant bodies, the Team is compiling a list of criteria that it considers useful indicators, such as:

(a) Whether the State submitted a report pursuant to resolution 1455 (2003);

(b) Whether it is party to the relevant four universal conventions and protocols to prevent and suppress international terrorism;[19]

(c) Whether it engaged with the Committee and the Team, if appropriate, by submitting information for inclusion on the Consolidated List;

(d) Whether it otherwise effectively implements the assets freeze, judged by the scope of its laws and other indicators, such as its participation in FATF, FATF-style regional bodies and the Egmont Group of Financial Intelligence Units, its implementation of the nine FATF special recommendations on terrorism, its use of counter-terrorism laws to freeze assets and its regulation of cross-border movements of cash and other commodities, alternative remittance systems and charities;

(e) Whether it otherwise effectively implements the arms embargo, judged by the scope of its laws and other factors, including whether it has participated in relevant international agreements and organizations and instituted controls on weapons and explosives;

(f) Whether it otherwise effectively implements the travel ban, judged by the scope of its laws and other indicators, such as its participation in Interpol and its programmes (including its stolen travel documents database and international notices system), its use of international standards for the creation and regulation of travel documents and its implementation of the List into national entry requirements and border controls.

46. The Team will utilize as broad a range of factors as possible to judge what might reasonably be expected from a State in view of its likely capacity, and measure this against what has been reported. The Team will then prioritize its follow-up enquiries according to objective and subjective judgements as to the likely level of threat.

B. Ensuring compliance by Member States

47. In order to maintain a high level of compliance by Member States, the Team believes that every effort should be made to foster and increase contact between them and the Committee. The Team sees itself playing an important part in promoting this exchange.

[19] Four of the 12 international conventions are particularly relevant to implementation of the Al-Qaida and Taliban sanctions. The International Convention for the Suppression of the Financing of Terrorism relates directly to the assets freeze measures, while the three arms-related conventions — involving protection of nuclear material, marking of plastic explosives and suppression of terrorist bombings — are relevant to the arms embargo. The Team has prepared two annexes to provide the Committee with more information on implementation of all 12 terrorism conventions (see annexes VI and VII), although the Team's focus remains on the four mentioned above.

48. Reporting by States is an invaluable means of learning of issues and gaining an initial impression of overall implementation efforts.[20] But the Team is acutely conscious of the need to avoid burdening States with reporting requirements beyond the absolute minimum, and wherever possible ensuring that written exchanges are directly relevant to the State concerned.

49. However the Team believes there is one area in which a general reporting requirement on States could provide significant additional information at minimal cost in terms of effort. The Team recommends that the Council direct all States to complete and return to the Committee a brief checklist within 60 days of its notification that a new name(s) has been added to the List. The checklist simply could ask States to respond, largely in the affirmative or negative, to a variety of compliance issues with respect to the additions, including whether the particular State has: (a) incorporated the name into any internal national list or registry of terrorists; (b) circulated the name to all relevant formal and informal financial institutions; (c) circulated the name to other businesses, professionals and charities; (d) located any pertinent assets (and specify the total); (e) frozen any such assets (and specify the total); (f) circulated the name to consulates, border/customs agents and all ports of entry; (g) located the person or entity within or at the borders; and (h) circulated the name to officials responsible for enforcing the arms embargo. An example of a proposed checklist is set out in annex I to the present report.[21]

C. Legal challenges to the sanctions

50. The many legal challenges to the measures, in particular in Europe and the United States, and the threat of more, pose a serious impediment to the success of the sanctions regime, not least by discouraging States to add names to the List. Based on Member State reports pursuant to resolution 1455 (2003) and further enquiry by the Monitoring Team, it appears that individuals and entities have filed at least 13 lawsuits around the world directly related to the sanctions. Litigants generally did not challenge the United Nations directly, but instead asserted that the State or regional body implementing the sanctions failed to abide by, among other principles, fundamental norms of due process, right to property and freedom of association.[22]

51. At least five cases challenging the implementation of the United Nations sanctions are pending before the Court of First Instance of the European Court of Justice. The Team has been informed that there are other cases filed before the European Court of Human Rights and the courts of individual States such as Italy, Pakistan, Turkey and the United States.

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[20] The Team acknowledges that some States have continued to update the Committee with respect to recent action they have taken to implement the sanctions.

[21] Such a checklist is in accord with the Team's view that targeted questionnaires are more useful at the current time than seeking broad general reports from all States, such as those mandated by resolution 1455 (2003). In the future, the Team encourages the use of specific questionnaires, possibly sent to particular States, and reporting by regional groups as ways to avoid the reporting fatigue experienced in this area.

[22] Unless otherwise noted, Member States provided the information on the litigation via their reports pursuant to resolution 1455 (2003) and/or in written or oral responses to queries by the Monitoring Team.

52. As far as the Team is aware, no court has, to date, invalidated a listing or national or regional programme implementing the sanctions, or suggested that the United Nations sanctions violated any national or international norms — although the decision(s) expected from the European Court of Justice may address these issues. The Team has prepared a summary of the cases it located, which is attached at annex II. The Team intends to remain abreast of these and any other relevant cases, contact the States involved and provide an update to the Committee in its June 2005 report.[23]

D. De-listing

53. The List is not a criminal mechanism and criminal standards of evidence or procedure are not required before persons or entities are placed on it. But some States have expressed concern that certain basic protections, afforded defendants in both criminal and civil matters, and generally known as due process, are not available to the listed. For example, an individual or entity receives no notice of a listing, whether before or after the Committee takes action. Listings have no end time limit, meaning that they apparently run forever unless the Security Council or the Committee decides otherwise. And, although the guidelines of the Committee for the conduct of its work include a procedure for de-listing, they do not specify the justifications that might support this, nor do they permit an individual to petition for de-listing, other than through his Government of residence and/or citizenship.[24]

54. As the High-level Panel has noted, "The way entities or individuals are added to the terrorist list maintained by the Council and the absence of review or appeal for those listed raise serious accountability issues and possibly violate fundamental human rights norms and conventions" (A/59/565, para. 152). Such concerns may discourage States from submitting names or applying sanctions with the required rigour, thereby undermining the credibility and effectiveness of the sanctions regime.

55. The Committee's insistence that States provide, to the extent possible, "a narrative description of the information that forms the basis or justification" for adding a name to the List goes some way to address these concerns.[25] The Committee also has established a de-listing process to enable those listed to petition for removal.[24] The Team believes that additional relatively minor changes to the de-listing process would address many of the widespread procedural concerns.

56. First, although the guidelines now allow parties to petition for de-listing, in accordance with United Nations practice they can only do so through their Government of residence and/or citizenship. If that Government is not sympathetic, the petition might not be presented to the Committee, regardless of the merits. The Team proposes that such petitions always be forwarded to the Committee, with an approval, objection, or neutral position from the relevant Government, so the

[23] The Terrorism Prevention Branch of the United Nations Office on Drugs and Crime, on account of its mandates and specialized area of work, may be well situated to provide technical assistance to States in respect of legal issues arising out of implementation of sanctions.

[24] See the Committee's guidelines, sect. 7, as adopted on 7 November 2002 and amended on 10 April 2003.

[25] Ibid., sect. 5 (b).

Committee ultimately makes the final decision.[26] In this way, petitioners will receive some semblance of the due process that constitutions and human rights covenants generally require.[27]

57. Second, the Team believes that if only for the sake of the credibility and acceptability of the List, de-listing should be possible both where a party was designated wrongly and for those who have renounced terrorism and/or otherwise demonstrated that they no longer deserve to be listed. Indeed the possibility of being removed from the list might provide an important incentive to a listed individual to renounce terrorism. The Team recommends that the guidelines be amended to allow explicitly for the possibility of de-listing when a party demonstrates — to the Committee's satisfaction — that it no longer is associated with Al-Qaida or the Taliban, does not engage in or support terrorism, and does not present any type of threat.[28]

58. Such revisions to the process could help to reduce the possibility of one or more potentially negative court decisions that could hamper enforcement efforts. If the European Court of Justice, for example, were to strike down the European Union (EU) mechanism because the system is deemed to violate due process, it might not alter EU member States' obligations to the United Nations to enforce the sanctions, but it would make it much more difficult for them to do so. And any such ruling certainly would impede the ability of the Council, the Committee and the Team to persuade Member States to propose names for listing.

59. Also, the establishment of this process would cost the Committee nothing. In the end, no de-listings will occur without the consent of all 15 Committee members. Therefore, the Committee would be able to ensure that parties linked to Al-Qaida and the Taliban are not removed from the List without sufficient evidence; courts and civil libertarians would know that everyone has received at least some form of process; and States could propose names for listing with the assurance that, if circumstances change, a robust de-listing system is available.

60. The Team proposes that the Committee authorize it to discuss de-listing issues with concerned States, and to collect further information from them as required by the Committee, in order to speed up a process that Member States have complained is unacceptably drawn out.

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[26] Because of established protocol, the Committee might prefer to continue to receive such petitions from Member States, rather than directly from the complaining parties. Nevertheless, parties should be able to notify the Committee, possibly via notification to the Team, if a Member State refused (or simply failed) to forward their de-listing petitions to the Committee.

[27] The other fundamental aspect of due process that could be provided, at minimal bother to the Committee, is issuing a notice immediately following a listing to the party involved, perhaps with reference to the Committee's de-listing procedures. The Secretariat could issue the notice to the address provided on the List; the Team suggests this simple piece of paper could help to assuage critics and ensure that some process is provided. If no address is available to the Committee at the time of listing, the standard procedure could remain the same, with simple publication of the listing on the Committee's Internet site.

[28] The Committee apparently has utilized this as its policy in prior de-listings. A recent legal article noted that certain Swedish parties were de-listed in 2002 based, in part, on "a promise that they would not deal with Al Barakaat [a listed entity] in the future." See Eric Rosand, *The Security Council's Efforts to Monitor the Implementation of Al Qaeda/Taliban Sanctions*, vol. 98, American Journal of International Law, 1, 6 (2004).

E. Deceased persons

61. In its first report, the Monitoring Team recommended against the automatic de-listing of persons on the List who had died, but suggested that a mechanism should exist to permit the removal of the names of dead persons as soon as circumstances allowed. The issue remains unresolved[29] and the Team continues to believe that a procedure should exist to remove or identify such persons so as to preserve the credibility of the List, to allow innocent heirs to take title to the assets, and to prevent unnecessary action by Member States who must check those names at border entry points or when attempting to identify and freeze assets.[30]

62. There are arguments for caution in this process. First, terrorists may fake their own deaths to try to avoid capture, and some reportedly have used the names of dead comrades in travelling or committing acts of terrorism.[31] Second, terrorist cells, such as the co-conspirators on 11 September 2001, have held assets such as bank accounts in common for ease of transferring money.[32] Third, transactions in the name of deceased persons may flow through financial systems months or even years after their death. Finally, any de-listing on account of death should not mean that additional entities and individuals added to the List based on their association with the deceased should also be de-listed, nor should it prevent further associates from being added to the List.

63. Accordingly, the Monitoring Team recommends amending the de-listing procedures contained in the guidelines of the Committee for the conduct of its work to deal with the issue of deceased persons.[33] At a minimum, the guidelines should provide a mechanism for heirs or other interested parties to petition a relevant Government for de-listing and to include appropriate documentary materials, including convincing evidence of the listed person's death and of all potential heirs' lack of involvement in and support for terrorist activities. The guidelines should provide that a de-listing based on a person's death does not affect the propriety of the original designation or that of any additional listings on which it may be based, in whole or in part.

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[29] One country proposed in September 2004 that the Committee de-list an individual who was reported dead, but this request has not moved forward, apparently in part owing to the lack of an agreed procedure on whether and how to de-list persons who are deceased.

[30] Of course, any listing or de-listing by the United Nations does not prevent individual Member States from taking further action against the person or assets involved, pursuant to their own internal laws. States are always free to initiate criminal, civil or administrative proceedings against the listed (or de-listed) person or entity and to take action to take title to and seize the assets involved — rather than merely keeping them frozen, as the United Nations resolutions require — assuming States can satisfy the proper evidentiary standards imposed by their laws. States also are free, if they choose, to enact laws to permit victims of terrorism to obtain such assets, assuming the proper national standards are satisfied.

[31] As an example, the perpetrator of the deadly ferry bombing in the Philippines on 20 February 2004 used the name of a deceased comrade in carrying out the attack, according to media reports quoting official sources.

[32] The hijackers on 11 September 2001, Mohamed Atta and Marwan al Shehhi, for example, maintained a joint checking account in the United States. Their co-conspirators in that plot held powers of attorney over others' accounts to allow them access, and some used checks or ATM or debit cards they had been provided to transfer money contained in co-conspirators' accounts. See the National Commission on Terrorist Attacks Upon the United States, Monograph on Terrorist Financing, staff report to the Commission, pp. 132-143.

[33] Even if deceased persons are not de-listed, the fact of their death should be noted on the List.

VI. Assets freeze

A. Overview

64. All operations by Al-Qaida and the Taliban have some financial cost, both in their planning and execution; and there are other costs that must be met to maintain networks of operatives. States have provided no definitive information on how Al-Qaida and the Taliban are raising money and moving it across borders, but in any case it is unlikely that there is a standard pattern or methodology as different groups will act according to local circumstances. Overall it appears that given increased international vigilance, Al-Qaida and the Taliban have been forced to use a variety of tactics to avoid detection.

65. The Monitoring Team believes that Al-Qaida, the Taliban and their associates continue to raise most of the money they need from the donations of knowing and unwitting benefactors and through local crime. The Team believes that when money crosses borders it does so most commonly by cash couriers and through informal remittance systems, though electronic transfers may be made between operatives who are thought not to have come to the attention of the authorities.

66. Implementation of the assets freeze measures varies considerably between States, but in general the formal financial sector continues to develop its efficiency through extensive circulation of the Consolidated List, introduction of stricter "know your customer" rules, better reporting of suspicious transactions, and broader activity by financial intelligence units. Reports from States indicate that many have allocated additional resources to counter-terrorism, including for the suppression of terrorist financing and improving collaboration between financial intelligence units, financial supervisory agencies, law enforcement agencies and intelligence services. There are, however, areas that still require attention.

67. On the evidence it has seen so far, the Monitoring Team believes that roughly half of the 133 States that submitted a report under resolution 1455 (2003) need to improve their systems and infrastructure in support of the assets freeze. It is likely that a high proportion of the 58 non-reporting States also fall into this category. The Monitoring Team is discussing this assessment with the Counter-Terrorism Committee Executive Directorate, which is looking at the needs of the same group of States in relation to their implementation of resolution 1373 (2001).

B. Scope of the assets freeze

68. According to Security Council resolution 1526 (2004), Member States are required to: "Freeze without delay the funds and other financial assets or economic resources ... including funds derived from property owned or controlled, directly or indirectly, by [listed individuals, groups, undertakings and entities] ... and ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory."

69. Subsequent guidance for States[34] made clear that the term "economic resources" included assets of every kind, whether tangible or intangible, moveable or immovable.

70. Additionally, resolution 1390 (2002) requires the freezing of funds and other financial assets "without delay", but practical considerations may make this difficult. For example, there will always be a delay between the addition of new names by the Committee and their inclusion in the legal or administrative instruments of Member States. The Monitoring Team recommends that where possible States should backdate the measures to the date of the Committee's decision so that no targeted assets may escape freezing, as has happened with other sanctions regimes.[35]

71. Further, terrorist groups generally do not have legal personality and can therefore not be expected to have bank accounts, hold title to other financial assets or own property under the names listed. Although the listing of such entities has value in facilitating the subsequent listing of their leaders, the Monitoring Team has noted considerable delays in this process, during which the assets freeze orders have had no real target.[36] The Team recommends that when listing an entity whose principals are not recorded, the Committee ask relevant States to submit these names as soon as possible.

72. Although the assets freeze may have dissuaded Al-Qaida, the Taliban and their associates from using the official banking system, the Monitoring Team believes there may still be money within the banking sector belonging to Al-Qaida, but held indirectly through nominees. In fact, one State[37] has reported freezing bank accounts of individuals not on the Consolidated List, but who held assets on behalf of listed persons. The Team recommends that the Committee remind States that this is entirely within the scope of the sanctions, which covers assets owned or controlled "directly or indirectly" by listed persons or "on their behalf".[38] It might also urge States to introduce disclosure obligations for such nominees, consistent with the "know your customer" obligations imposed on financial institutions.

C. Cash couriers

73. There is little doubt that Al-Qaida makes use of cash couriers for the purposes of financing its activities and supporting its operatives (see box 1 and annex IV). Enhanced scrutiny by authorities of regulated financial systems and the lax controls

[34] This guidance was provided for States in preparing reports pursuant to resolution 1455 (2003).

[35] The Monitoring Mechanism on Sanctions against UNITA reported that a senior official of the União Nacional para a Independência Total de Angola (UNITA) was able to dispose of his equity in one of his business entities before the asset freeze measures were imposed in that State (S/2002/486).

[36] E.g., Al-Itihaad Al-Islamiya/AIAI (based in Somalia) was listed on 6 October 2001. Its leader, Hassan Abdullah Hersi Al-Turki, was only listed on 6 July 2004. The Salafist Group for Preaching and Combat (GSPC) was listed on 6 October 2001. One of its leaders was only listed on 4 December 2003. Another leader, Nabil Sahraoui, was not listed at all up to his death in early July 2004. This organization is reported to have demanded and received ransom for the release of European hostages that it abducted in 2003. Abu Sayyaf was listed on 6 October 2001; its principals have not been listed.

[37] Indonesia's report submitted under resolution 1455 (2003).

[38] Resolution 1390 (2002), para. 2 (a).

at many borders continue to make the physical movement of cash and other forms of value attractive to terrorists as well as other criminals. The move towards regulation has been gradual, but heightened concern over money-laundering, and in particular its role in financing international crime and terrorism, has led to some progress. In 2003 an Economic and Social Council survey of 117 Member States found that 70 per cent required the declaration of cash being transported across their borders in excess of a specified limit, as opposed to 49 per cent in a similar survey two years earlier (E/CN.7/2003/2/Add.6). The same report also noted an increase in the number of States requiring declaration of negotiable bearer instruments, from 31 per cent to 45 per cent. But nonetheless, a significant number of States have no requirement.

74. In October 2004, FATF introduced its ninth special recommendation dealing with cash couriers (see also para. 26 above). This calls upon countries to put measures in place to detect cross-border movements of currency and monetary instruments, including a disclosure obligation on travellers backed up by the necessary legal authority for officials at the borders to seize undisclosed currency or bearer negotiable instruments that they suspect to be linked to terrorist financing or other criminality.[39] FATF suggests that the reporting threshold be set below 15,000 euros/$15,000, acknowledging that the amount will vary from State to State.

75. FATF also suggests that competent authorities be authorized to request and obtain information from the carriers of undisclosed currency or bearer negotiable instruments if they are discovered, and be able to penalize them. Couriers may deliberately carry less than the reportable amount, but the reporting obligation is still important in that it provides law enforcement and border authorities with the impetus and legal basis to look for them. Even if a courier is detected carrying an amount less than that set by the threshold, officials will have an opportunity to investigate further. Financial intelligence units can play an important part here.

76. The Monitoring Team recommends that the Security Council and the Committee urge States to adopt countermeasures against cash couriers, such as the ones proposed by FATF. These measures should guard against the cross-border movement of all forms of value, including precious commodities, that could be used to finance terrorism.

[39] See FATF web site, www.fatf-gafi.org; Current news releases: "FATF Targets Cross-Border Cash Movements by Terrorists and Criminals".

Box 1

Hambali, whose real name is Riduan Isamuddin, was considered the operational head of the Al-Qaida-linked terrorist group Jemaah Islamiyah. He was arrested in Thailand in August 2003 on terrorist charges and is currently in United States custody. Hambali had a role in the planning and financing of the Bali bombings, which resulted in the deaths of 202 persons in two explosions on 12 October 2002 in one of the island's most popular tourist and nightclub areas. He was also implicated in the bombing of the Marriott Hotel in Jakarta on 5 August 2003, which killed 12 people and injured many more.

During 2002, while hiding in Thailand, Hambali passed funds to Wan Min Wan Mat (a financier for Jemaah Islamiyah) who transferred approximately US$ 30,000, including some Thai currency, to Ali Ghufron, alias Mukhlas (head of one of Jemaah Islamiyah's operational units and older brother of two of the Bali bombers, Amrozi and Ali Imron). The funds were moved in two instalments between July and September 2002 by Indonesian labourers working in Malaysia and were delivered to Mukhlas at his home in Lamongan, Indonesia.

In a series of handovers between August and October 2002, Mukhlas provided funds via Hutomo Pamungkas (also known as Mubarok) to Jhoni Hendrawan (also known as Idris), who was an assistant to Imam Samudra, the man in charge of logistics for the Bali attack; Dulmatin (also known as Amar Usman), who was one of the two people suspected of constructing the bombs; his brothers Ali Imron, who helped to make and move the bombs, and Amrozi, who purchased chemicals and vehicles and rented a safe house in Bali.

Additional funding for the Bali bombing came from the criminal activities of Imam Samudra who recruited two individuals to rob a gold shop in Serang.

Hambali in Thailand sent a further $30,000 of Al-Qaida money to Indonesia in April 2003 through cash couriers to finance the bombing of the Marriott Hotel. Hambali's younger brother, Rusman Gunawan, has also been implicated in the financing of the hotel bombing, being convicted and sentenced in an Indonesian Court for his part in the plot in October 2004. Idris (mentioned above) was also convicted in relation to the Marriott Hotel bombing, having been found guilty under the Counter-Terrorism Law for his part of knowingly transporting explosives used for the bombing in August 2004.

Sources: National Bureau of Asian Research, NBR analysis, vol. 14, No. 5, December 2003; and Australian Federal Police web site.

D. Alternative remittance systems

77. Alternative remittance systems are known by many terms,[40] but all share the same operational characteristics. They are systems based on trust by which money is sent from one location to another, without instantaneous movement of physical currency or financial instruments. Such systems occur outside, and run parallel to, the normal banking sectors and generally remain unregulated; they can take several forms.[41] As most operate clandestinely, they are difficult to spot, especially in States where the practice is prohibited.

78. These systems offer users several advantages, primarily that they are faster and cheaper than conventional banks, with funds delivered door to door often within 24 hours. A particular attraction to criminals and terrorists is that record-keeping is limited or in codes only understood by the operators themselves, making it difficult to reconstruct money trails in the event of an investigation.

79. Although few States in their 1,455 reports acknowledged the existence of unregulated remittance systems within their jurisdiction, they are widespread. A recent study[42] shows they exist in 21 States in the Indian and Asia/Pacific subcontinents alone. The amount of money involved is hard to gauge, but the amount of funds remitted annually by migrant workers to their families in their home country is generally accepted as an indicator as much is transferred in this way. In 2002, the estimated global total of workers' remittances amounted to $80 billion,[43] up from $72.3 billion recorded for 2001. In economic terms, workers' remittances were systemically important, accounting for 1.3 per cent of developing countries' gross domestic product in 2002.[44]

80. Reports submitted under resolution 1455 (2003) by States that are the principal source of remittances[45] show a trend towards insisting that those who operate alternative remittance systems do so subject to the regulations that apply to the formal banking system. These States also have aimed to curb criminal enterprises and terrorist financing by tightening systems in their formal financial systems such

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[40] Other terms include parallel banking, underground banking and ethnic banking. They are known as fei-ch'ien in China; hundi in Pakistan and Bangladesh; hawala in India and the Middle East; padala in the Philippines; hui kuan in Hong Kong; and phei kwan in Thailand.

[41] For example, in a presentation at a conference on terrorism financing in 2004, held by the Eastern and Southern Africa Anti-Money Laundering Group, the International Monetary Fund reported that bus companies with offices in more than one African country accept money at their offices in one country for later collection in the local currency at their offices in another country. In this way the bus company is able to repatriate profits without having to use the international banking system, and individuals are able to transfer funds clandestinely.

[42] Lisa C. Carroll, "Alternative remittance systems distinguishing sub-systems of ethnic money-laundering in Interpol member countries on the Asian continent", Interpol, 2003.

[43] World Bank, Global Development Finance, 2003.

[44] In South Asia, workers' remittances accounted for 2.5 per cent of the gross domestic product, in the Middle East/North Africa for 2.2 per cent, in Latin America/Caribbean for 1.5 per cent, and in Sub-Saharan Africa, 1.3 per cent.

[45] According to resolution 1455 (2003) reports, the top four remittance source States in 2001 as identified by the World Bank all require money transfer services to register, implement "know your customer" rules and file suspicious transactions reports. These countries reported that it is illegal to operate money transfer systems without official authorization. The Monitoring Team believes that these States have all taken concrete and effective action to implement the financial measures with respect to alternative remittance systems.

as through stricter customer verification procedures and better reporting of suspicious transactions.

81. The principal remittance-receiving States[46] appear to prefer a soft, incentive-based approach meant to improve public accessibility to the formal banking systems. This approach is a sound strategy from a longer-term economic perspective, allowing better collection of data for economic policy formulation, more foreign exchange and development finance, and a better exchange rate determination. Further, by encouraging remittances through formal systems, alternative remittance system operators will be gradually driven out of business, leaving exposed those who remain to act on behalf of terrorists and other criminals.

82. Although any initiative that succeeds in bringing alternative remittance systems into better view is worthwhile, the Monitoring Team believes that there is scope for more coordination between source States and receiving States. It is not enough that remittance source States introduce stringent anti-money-laundering and combating financing of terrorism controls if receiving States do not aim to impose similar controls at the other end of the transaction.

83. The Monitoring Team notes that the great majority of informal remittances are made for legitimate purposes and that any regulation that increases the cost to operators or penalizes them, without at the same time making the formal sector more attractive to customers, would likely result in even less-visible alternatives springing up. It also recognizes that States will be reluctant to introduce measures likely to stem the flow of remittances. Nonetheless it offers the following recommendations:

(a) States not prepared to ban alternative remittance systems should be encouraged at least to register, and preferably to licence them, with prosecution available for all unregistered or unlicensed operators;[47]

(b) Registered or licensed alternative remittance systems should be required to deal only with network correspondents that are also registered or licensed, and such correspondents should be notified to and approved through the supervisory channels of the States concerned;

(c) In order to address the concerns of remittance-receiving States, registered alternative remittance systems should be obliged to settle balances through normal banking channels;

(d) States should consider publishing the names and locations of registered alternative remittance system operators on a regular basis, or making a list available on the Internet, so as to expose unregistered operators;

(e) States should require operators of registered remittance systems to meet the same "know your customer" requirements as the formal banking sector, record

[46] According to resolution 1455 (2003) reports, the top seven remittance-receiving States in 2001, as identified by the World Bank, with the exception of one, were silent on alternative remittances or whether unregistered systems were illegal. The Team believes that five have taken below-average actions to implement the financial measures.

[47] Some take the view that these systems should simply be prohibited and that licensing or registration is not enough. Rajesh Ranjan, Assistant Director of Interpol's Financial and High Tech Crime Sub-Directorate, and an expert on alternative remittance systems, told the Monitoring Team that he is of this view.

correspondent relationships, report suspicious transactions, maintain records, and generally comply with all FATF recommendations;

(f) States should make their formal banking sector more attractive to the senders of money, including measures that would allow access for migrant workers regardless of their immigration status; provide wider accessibility to banks; reduce fees for overseas remittances; relax exchange controls, and reduce minimum balance requirements. Such measures can substantially reduce the volume of funds going through unregistered systems so that a larger proportion of the transfers that continue there may be attributed to criminality and less easily hidden.[48]

E. Charities and similar entities

84. The Monitoring Team recognizes that those wishing to finance terrorism will abuse relatively few charities, but the threat is sufficiently real to make regulation important. States should do what they can to ensure that genuine charities are able to operate as freely as possible while ensuring that donors do not find their money diverted from the good causes they wish to support (see box 3 and annex III for examples of abuse).

85. States did not generally include in their reports under resolution 1455 (2003) information on their measures regarding charities. While some States have frozen assets belonging to listed charities, other States in which they operate have not provided any relevant information. At the time of its report, one State[49] had been unable to identify any activity by two listed charities on its territory, although it did note that a third had operated there. And in another area of operation by a listed charity, the State (Somalia) concerned lacked the capacity to take action.

[48] The Team notes the commitment of the Group of 20 to remove impediments identified as reasons for the use of the informal sector and to enhance transparency in the formal sector aimed at drying up the illegal activities. A report to the Group of 20 Finance Ministers and Central Bank Governor (Combating Money Laundering and Terrorist Financing, November 2004) identified the following reasons for the use of the informal sector: lack of adequate banking infrastructure in remitting or recipient countries, lower charges, anonymity of user allowed. The report recommends abolishing these impediments and enhancing transparency in the formal sector through effective monitoring and supervision, thereby drying up the illegal activities.

[49] According to its resolution 1455 (2003) report and subsequent correspondence with the Team, Bangladesh found no activities of the Global Relief Foundation and the Benevolence International Foundation within its territory. Media reports subsequently indicated that Bangladesh had frozen four bank accounts in October 2004 belonging to Benevolence and the Al-Haramain Islamic Foundation, another listed charity. The Government of Bangladesh could not corroborate this information prior to publication of the present report.

Box 2
Number of States acting against certain listed charities

Name of charity	*States in which charity listed*	*States that reported freezing assets*	*States not submitting 1455 (2003) reports*	*States' reports that provided no account of charity*
Al Haramain	13	2[a]	3	8
Benevolence International Foundation	18	4[b]	1	13
Global Relief Foundation	24	3[c]	5	16
Al Rashid Trust	4	1	0	3

[a] Bosnia and Herzegovina and the United States.
[b] Azerbaijan, Bosnia and Herzegovina, the United Kingdom and the United States.
[c] Azerbaijan, Bosnia and Herzegovina and the United States.

86. The Monitoring Team intends, with the approval of the Committee, to engage relevant States to find out what has or has not been done with regard to listed charities, and, if their assets have been frozen, obtain details of their value where possible.

1. Registration and accounting obligations

87. The Monitoring Team believes that it would greatly help prevent the abuse of charities for terrorist purposes were they obliged in all States to register. The Monitoring Team recommends that any mandatory licensing process involve all relevant authorities, including those responsible for the area in which the charity's activity falls, and those responsible for the location in which it wishes to work. Licences should restrict the charity to specified activities and locations. The application to register a charity should include a charter specifying the purpose for which the charity is established, and how the day-to-day affairs of the charity will be directed.

88. Although effective vetting of the trustees and employees of charities may be beyond the capacity of many Member States, the Monitoring Team recommends this as an ideal and believes that whatever checks can be made should be made, including against the names on the Consolidated List. As States will be unable or unwilling to monitor charities continually, they should require them to apply periodically to renew their licences, and to demonstrate that they are providing the stated benefits to the public.

89. Financial accountability is an important element in the governance of charities and includes proper bookkeeping, independent audits, full annual reports and the accountability of trustees and managers. Many States require an official inspection or audit of charities that seek tax exemptions or government grants; the Monitoring Team recommends that this obligation be extended to all charities.

Box 3

Komite Penanggulangan Krisis (KOMPAK) in Indonesia is an organization that asserts it is engaged in providing relief to the needy in areas of conflict such as Aceh, Poso, the Malukus, and Bangunan Beton Sumatra. It was founded in August 1998 in the midst of sectarian conflict in the Malukus and was linked to the Dewan Dakwah Islamiyah Indonesia (one of Indonesia's most important Muslim social organizations). A director of Dewan Dakwah Islamiyah, and one of the founders of KOMPAK, is Aris Munandar, a close associate of radical cleric Abu Bakar Ba'asyir, the alleged spiritual leader of Jemaah Islamiyah, who is currently on trial in Indonesia for his alleged involvement in the Bali and Marriott Hotel bombings. Munandar is also an active member of Majelis Mujahidin Indonesia, led by Ba'asyir, which aims to convert Indonesia into an Islamic State.

KOMPAK headquarters is in Jakarta, with regional offices in the areas of conflict where it is supposed to be engaged in its charitable work of distributing food, clothing and medical supplies. Several of these regional offices have been associated with persons alleged to be actively engaged in supporting militant and terrorist activity:

- KOMPAK Solo — one of its representatives, Imam Hanafi, bought weapons in Mindanao in March 2000 for fighters in Ambon, and another member, Suryadi Mas'uf, is alleged to have made seven trips to the southern Philippines with KOMPAK money to buy weapons.
- KOMPAK South Sulawesi — former Chairman, Agus Dwikarna, who now appears on the Consolidated List, was arrested at Manila's International Airport in March 2002 carrying C-4 explosives in his suitcase.
- KOMPAK Jakarta — during the interrogation of Omar al-Faruq, an Al-Qaida associate, the head of the regional office, Tamsil Linrung, was identified as a member of Jemaah Islamiyah who participated in three terrorism planning meetings held in Malaysia in 1999 and 2000.

The Secretary of KOMPAK, when questioned after the arrest of Dwikarna in Manila, reportedly denied KOMPAK involvement in his extremist activity, saying "What he does outside of KOMPAK is not our responsibility".

Sources: National Bureau of Asian Research, NBR analysis, vol. 14, No. 5, December 2003; and International Crisis Group report, "Jemaah Islamiyah in South East Asia: Damaged but Still Dangerous", 26 August 2003.

90. As a way of reducing the risk of a charity establishing itself without the knowledge of the relevant authorities, financial institutions should be obliged to seek proof of registration or licence before opening a bank account on behalf of a charity. The Committee should encourage States to continue their efforts to curb the exploitation of charities on behalf of terrorists in line with their own cultural and regulatory norms.[50]

2. Other regulatory controls

91. States should also be aware of the need to control the branches of foreign charities established in their territories, and should demand to see certificates of registration, and approval to open an overseas branch from the parent charity's country of origin. States should consider obliging charities to report, on a confidential basis, remittances of funds abroad, specifying the amount, the name of the beneficiary, and the purpose of the donations. The Team notes the approach of one State (the United Arab Emirates), which has been to minimize the transfer of money abroad by charities, limiting overseas work, where possible, to donations in kind.

F. Precious commodities

92. Speculation continues about the extent to which Al-Qaida, the Taliban and associated individuals and entities have used precious commodities as a means of holding and moving money. One well-publicized case involves Ahmed Khalfan Ghailani, a listed person arrested in July 2004 for his alleged part in the 1998 bombings of two United States Embassies in East Africa. Reports[51] suggest that Ghailani converted about $20 million into precious gems following the 1998 bombings to put it out of reach of the assets freeze imposed upon Al-Qaida.

93. But evidence of any consistent use of precious commodities to support Al-Qaida terrorism is scarce. Two men, Aziz Nassour and Samih Ossaily, investigated for allegedly trading in conflict diamonds with Ghailani on behalf of Al-Qaida, are currently on trial in Belgium for diamond-trafficking offences. But prosecutors have not proceeded with any charges related to terrorism through lack of evidence.[52]

G. Crime and terrorism

94. The Monitoring Team believes that crime provides a large percentage of the money needed and spent by Al-Qaida, the Taliban and their associates. In addition to more conventional methods of raising money, hostage-taking is an established terrorist tactic. For terrorists, it is an attractive way to raise money, as well as to force political concessions, and although no Government will readily admit to giving in on either count, some groups have become well funded[53] through this activity. One of the groups particularly adept at this form of self-financing is the

[50] Saudi Arabia, for example, has launched a public awareness campaign to support new regulations concerning charitable donations in the Kingdom.

[51] Including a report by the Chief of Investigations of the Special Court for Sierra Leone.

[52] Official Belgian source.

[53] GSPC (listed as a group associated with Al-Qaida) reportedly received a significant ransom for the release of European tourists abducted in 2003.

Abu Sayyaf Group[54] which was paid millions of dollars in 2000 for the release of hostages seized in Malaysia.[55] The International Convention against the Taking of Hostages (1979) criminalizes the act, and States that have not done so[56] should become party to it, but it does not forbid the payment of ransom. The Monitoring Team suggests that the Security Council: (a) recall the obligation contained in resolution 1373 (2001) to criminalize and to prevent, without exception, any provision of financial resources to terrorists; and (b) consider whether this obligation applies to the paying of ransom to individuals and entities designated in the Consolidated List. Other criminal activities, such as the drug trade, also have demonstrable links to terrorism.

Box 4

In southern California during April 2002, Ilyas Ali who claimed to be acting on behalf of Syed Mustajab Shah and Muhamed Abid Afridi, negotiated with an undercover law enforcement officer for the sale of large quantities of drugs. On or about 15 September 2002, Shah, Afridi and Ali travelled from Karachi, Pakistan to Hong Kong, China. There they held meetings with undercover officers from the United States to negotiate the sale of 5 metric tons of hashish and 600 kilograms of heroin. The plan was to import the drugs into the United States and sell them to offset the cost of purchasing four "Stinger" anti-aircraft missiles that they intended to sell to the Taliban in Afghanistan.

The undercover operation by the United States Federal Bureau of Investigation resulted in the arrest and detention of the three suspects in Hong Kong and the subsequent conviction of Afridi and Ali, who pled guilty to conspiring to distribute heroin and hashish and to provide material support and resources to a foreign terrorist organization (Al-Qaida). The third defendant, Shah, has pled not guilty and awaits trial.

United States Attorney General John Ashcroft cited this and another drug case in a press conference held in November 2002, noting that "terrorism and drug trafficking thrive in the same conditions, support each other, and feed off each other".

Sources: The United States criminal cases of Shah, Afridi and Ali; prepared remarks of Attorney General John Ashcroft, 6 November 2002.

[54] Added to the Consolidated List on 6 October 2001.

[55] "Patterns of Global Terrorism" United States Department of State, 2003.

[56] Some 144 States are party to the Convention.

H. Role of financial intelligence units

95. Financial intelligence units can play a vital part in identifying financial activity that is potentially linked to terrorism. Ideally, the financial intelligence unit will play this part by assisting investigations into terrorist financing, both domestically and internationally. The Egmont Group, formed in 1995 to be a forum for cooperating financial intelligence units to improve the operation of anti-money-laundering and combating financing of terrorism programmes, set criteria for membership that defined a financial intelligence unit as "a central, national agency responsible for receiving (and, as permitted, requesting), analysing and disseminating to the competent authorities, disclosures of financial information: ... concerning suspected proceeds of crime ..., or ... required by national legislation a regulation, in order to combat money-laundering and terrorism financing".[57]

96. All States should have a financial intelligence unit that satisfies the criteria for membership of the Egmont Group. The Monitoring Team recommends that the Committee urge States that have not yet established a financial intelligence unit to do so, and express its support to the donor countries, and international and regional organizations engaged in capacity-building that are helping to create these functional units. Authorities should also review the operational effectiveness of their financial intelligence units in accordance with relevant international standards on a regular basis.

I. Role of international organizations

97. International organizations continue to play an important role in countering the financing of terrorism, with FATF being especially influential. The Team notes efforts to improve coordination between FATF, FATF-style regional bodies, the International Monetary Fund (IMF) and the World Bank, by creating and encouraging the adoption of a universal standard for assessing States implementation of an anti-money-laundering and combating financing of terrorism framework (based on the FATF revised 40 and 9 special recommendations). This work is directly relevant to the implementation of the financial and economic assets freeze upon Al-Qaida, the Taliban and associated individuals and entities. In considering further measures, the Committee may also wish to refer to IMF country reports on the observance of standards and codes[58] and also to the working group's technical assessments needs analysis reports, both of which involve anti-money-laundering and combating financing of terrorism evaluations.

98. Two new FATF-style regional bodies were established in 2004. The Middle East and North Africa Financial Action Task Force, which includes Algeria, Bahrain, Egypt, Jordan, Kuwait, Lebanon, Morocco, Oman, Qatar, Saudi Arabia, the Syrian Arab Republic, Tunisia, the United Arab Emirates and Yemen, held its

[57] For a more detailed description of financial intelligence units and their function, see www.egmontgroup.org/egmont_final_interpretive.pdf.

[58] The reports on the observance of standards and codes summarize the extent to which countries observe certain internationally recognized standards and codes. IMF has recognized 12 areas and associated standards, one of which is anti-money-laundering and combating financing of terrorism. Anti-money-laundering and combating financing of terrorism controls were was added in November 2002. See www.imf.org/external/np/rosc/rosc.asp.

inaugural meeting in November, as did the Eurasian Group, which includes the Russian Federation, China, Belarus, Kazakhstan, Kyrgyzstan and Tajikistan, the following month. As it has done with other FATF-style regional bodies, the Monitoring Team intends to engage these new groups to ensure that their members are aware of the work of the Committee, of their reporting obligations under resolution 1455 (2003), and of the mandate of the Monitoring Team.[59]

VII. Arms embargo

99. The methodology of terrorist attacks by Al-Qaida, the Taliban and their associates is in large part determined by their circumstances. While they may seek to acquire military weapons and explosives, they must use whatever comes to hand. This has meant that apart from Iraq, where military ordinance is plentiful, and the Afghan/Pakistan border area, where there are still stockpiles of weapons left over from the Taliban rule, operatives are most likely to use small arms and improvised explosives in their attacks. Unfortunately this does not detract from their ability to cause suffering and fear among civilians, and their ambition to increase the impact of their attacks, by whatever means, remains strong.

A. Overview

100. However limited its current impact, the Monitoring Team is convinced that the arms embargo remains a vital part of the overall sanctions regime against Al-Qaida, the Taliban and their associates. The task of quantifying the effect of the current provisions and the extent of their implementation is made harder by the lack of information on their arms trade provided by Member States' reports submitted under resolution 1455 (2003). But the Team's analysis, based on the information submitted, suggests that most States have the necessary legal measures in place to regulate the traffic, acquisition, storage and trade in arms, and that where necessary they have incorporated the measures imposed by the Security Council into their legal frameworks. Most States do not draw a distinction between those on the Consolidated List and other criminals. Unfortunately, despite these measures, Al-Qaida continues to be able to mount devastating attacks.

101. Though some States may be more diligent than others, the Team does not believe that Al-Qaida's continuing capacity is the result of any deliberate disregard of the sanctions. States may be unconvinced that the arms embargo has much effect, but there is still agreement that, wherever possible, action should be taken to deny Al-Qaida and the Taliban the means to mount attacks. The Monitoring Team suggests that this international consensus allows the Security Council to look beyond the current measures to address three specific issues: the availability of man-portable air defence systems; the control of commercially available explosives, and the threat that Al-Qaida, the Taliban and their associates might obtain the capability to mount a chemical, biological, radiological or nuclear attack.

[59] FATF-style regional bodies meetings attended by the Monitoring Team include: the East and Southern African Anti-Money Laundering Group and the Caribbean Financial Action Task Force.

B. Scope of the arms embargo

102. By resolution 1526 (2004), the arms embargo obliges States to prevent the direct or indirect supply, sale and transfer, to these individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities.[60]

103. In its first report, the Team recommended adding to the Consolidated List the names of individuals and groups found to be supplying Al-Qaida-associated terrorists with material or expertise to construct weapons designed to cause mass casualties.[61] This requires no revision to the arms embargo and as the supply of arms to listed terrorists is more likely to come from non-State actors than from States themselves, the Team continues to recommend that the Council remind States of their obligation to ensure that their nationals do not breach the arms embargo, and encourage States to prosecute and to submit for inclusion on the List those of their nationals or others whom they have reasonable cause to suspect of doing so.

C. Man-portable air defence systems

104. Man-portable air defence systems are particularly suited to terrorism; they are small, light, missile-launching weapons, designed to be used against an aircraft. They are widespread, relatively inexpensive, easily transportable and effective.[62] Possibly the best-known recent terrorist use of man-portable air defence systems was the unsuccessful attempt to shoot down an Arkia Israeli Airlines jet as it took off from Mombasa, Kenya, on 19 November 2002, but according to the International Civil Aviation Organization (ICAO), at least 42 civilian aircraft have been attacked by such systems since 1970, with 29 of them going down.[63]

105. Besides general counter-terrorism measures, there are three areas in which Al-Qaida's ability to attack civilian aircraft with man-portable air defence systems can be addressed: technical on-board countermeasures, civil aviation security programmes, and the eradication of the illicit supply of man-portable air defence systems. While the approaches differ in terms of their likely reliability and cost-effectiveness, they provide the main components of an effective protection regime.

1. Technical on-board counter measures

106. Several international and regional organizations, Governments and corporations are engaged in devising effective, safe and economical technical countermeasures to protect civilian aircraft from man-portable air defence systems. Among them are the North Atlantic Treaty Organization (NATO), which is looking at anti-missile systems for use in civilian aircraft, and ICAO, which is considering ways to improve aircraft resilience against in-flight collisions and explosions. Several States as well as the European Union (EU) have indicated their intention to

[60] See resolution 1526 (2004), para. 1 (c); see also resolution 1390 (2002), para. 2 (i).
[61] See also S/2004/679, para. 66.
[62] Small arms survey 2004.
[63] ICAO presentation, March 2004, see www.osce.org/documents/sg/2004/03/2203_en.pdf.

draft legislation or regulatory standards for the protection of civil aviation, and some have already done so.[64] Overall, while there are installation and operating costs, on-board counter measures provide the only option that Governments and airlines have to protect their citizens, assets and customers in all parts of the world.[65]

2. Civil aviation security measures

107. There are a number of existing technical assistance programmes to prevent attacks by man-portable air defence systems by enhancing civil aviation security measures at airports. ICAO, the Organization for Security and Cooperation in Europe (OSCE), the Group of Eight and other organizations are working to raise awareness of the issue and to utilize the expertise within their memberships. ICAO recently developed new guidance material on the subject[66] and believes that if properly implemented, general measures can reduce the risk of a successful attack considerably, and that additional measures taken at times of heightened risk could reduce the threat still further.[67] As States have limited influence over the technical countermeasures installed on-board foreign aircraft using their airports, and may be able to exercise only limited control over the proliferation of man-portable air defence systems, better in-flight and ground security measures are an attractive first line of defence.

3. Eradication of the illicit supply

108. To prevent proliferation of current and, more importantly, more advanced future man-portable air defence systems beyond licensed end-users, States that produce them must adopt robust controls over their export. The risk of illicit acquisition of existing systems must be further reduced through improvements to the security of stockpiles, the destruction of surplus stocks, the effective control of the legal trade and the elimination of the illicit trade. Member States and international bodies are taking several measures to achieve these goals, but more could be done.

109. The General Assembly adopted resolutions concerning man-portable air defence systems in both 2003 and 2004. In resolution 59/90 on the prevention of the illicit transfer and unauthorized access to and use of man-portable air defence systems the Assembly stressed the importance of effective and comprehensive national controls on their production, stockpiling, transfer and sale. It also urged States to ban the transfer of man-portable air defence systems to non-State end-users and to destroy surplus stockpiles.

110. There have been other international initiatives. OSCE has addressed export control issues, the destruction of surplus systems and the security of national stockpiles against theft or illicit transfer.[68] NATO has been involved in the

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[64] NATO, ICAO and EU experts in the OSCE man-portable air defence systems conference in January 2004; see www.osce.org/events/conferences/ctc_conference.

[65] All El Al aircraft will be equipped with anti-missile systems at an estimated cost of $1 million per plane. Israel civil aviation authority official statement to CNN, 24 May 2004.

[66] ICAO *Journal*, vol. 59, No. 7, 2004.

[67] United States Government and ICAO experts in the OSCE man-portable air defence systems conference in January 2004.

[68] OSCE Forum for Security Cooperation decisions No. 7/03 of July 2003 and No. 3/04 of May 2004.

destruction of a number of surplus stockpiles.[69] The Group of Eight Ministers have agreed to combat the proliferation of man-portable air defence systems, as well as to encourage further action in the ICAO Aviation Security Working Group.[70] The Group of Eight has also sought wider acceptance of the principles adopted by the 33 members of the Wassenaar Arrangement[71] on export controls, including an obligation to implement technical performance and/or launch control features for newly designed man-portable air defence systems so as to prevent unauthorized use.[72]

111. The Monitoring Team **recommends** that the Council, building on this international activity, oblige States to establish effective and comprehensive national controls on the production, stockpiling, transfer and brokering of man-portable air defence systems; improve mechanisms to ensure man-portable air defence systems stockpile security; ban the transfer of man-portable air defence systems to non-State groups; introduce measures to eliminate surplus stockpiles; and, through a better exchange of information, prevent the illicit transfer to and unauthorized access to such weapons systems by Al-Qaida, the Taliban and their associates.

D. Commercial and improvised explosives

112. The use of commercially available and improvised explosives by Al-Qaida and its associates is commonplace (see box 5). For example, those behind the Istanbul bombings in November 2003 claim to have originally aimed to use dynamite, but concerns for their operational security prevented them from obtaining enough and instead they had to rely on commercial fertilizer.[73] Despite certain drawbacks, commercial and improvised compounds have proved to be effective substitutes for military-grade explosives, and training in the construction of improvised explosive devices from such goods is available on the Internet, even if the skills acquired in the Afghan training camps are now less available.

[69] Report on the Partnership Action Plan against Terrorism, NATO Istanbul Summit, June 2004.

[70] Group of Eight Action Plan to Enhance Transport Security and Control of man-portable air defence systems, Evian Summit 2003, and Group of Eight Secure and Facilitated International Travel Initiative, Sea Island Summit, 2004.

[71] Argentina, Australia, Austria, Belgium, Bulgaria, Canada, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, the Republic of Korea, Romania, the Russian Federation, Slovakia, Spain, Sweden, Switzerland, Turkey, Ukraine, the United Kingdom and the United States.

[72] Elements for Export Controls of man-portable air defence systems, Wassenaar Arrangement plenary, 2003.

[73] Sources at Southeast European Cooperative Initiative Anti-Terrorism Task Force.

Box 5

Comparative case study of terrorist bombings, 2003-2004

The following table contains information on selected prominent terrorist bombings since mid-2003 conducted by groups that have links to Al-Qaida or have adopted its methodology. It illustrates the use of military, commercial and improvised explosives.

Date	*Place*	*Method*	*Type of primary explosive*
12 May 2003	Riyadh	Suicide car bombing, three targets	Military[a]
16 May 2003	Casablanca, Morocco	Suicide bombings, five targets	Improvised[b]
5 August 2003	Jakarta	Car bomb, Marriott Hotel	Military, with improvised component[c]
8 November 2003	Riyadh	Suicide car bombing	Military[d]
15 November 2003	Istanbul, Turkey	Suicide car bombing, two targets	Improvised[e]
20 November 2003	Istanbul, Turkey	Suicide car bombing, two targets	Improvised[f]
11 March 2004	Madrid	Bombing, four trains	Commercial[g]
9 September 2004	Jakarta	Suicide car bombing, Australian Embassy	Improvised with military explosives as detonator[c]

[a] United States military official quoted in Congressional Research Service report (IB93113), 16 May 2003.

[b] Moroccan Government spokesman on 22 May 2002, quoted on Jane's Terrorism Watch Report.

[c] Indonesian official source.

[d] Royal Embassy of Saudi Arabia, www.saudiembassy.net/2004News/Statements/StateDetail.asp?cIndex=422.

[e] Office of the Prime Minister, www.byegm.gov.tr/yayinlarimiz/chr/ing2003/11/03x11x18.htm.

[f] Sources at Southeast European Cooperative Initiative Anti-Terrorism Task Force.

[g] Spanish official sources.

113. Despite the difficulties of effective regulation of dual use goods, the Monitoring Team believes there is scope to introduce new measures that would limit the ability of Al-Qaida and the Taliban to use commercial or improvised explosives, such as ammonium nitrate.

114. Ammonium nitrate can be purchased easily and cheaply in most countries as fertilizer. It is often used in the production of commercial explosives, and in granular form it simply needs mixing with an appropriate proportion of fuel oil to become dangerous. Ammonium nitrate has been used by terrorists in the composition of bombs for numerous attacks, including the Oklahoma City bombing of 1995 and the Istanbul bombings of November 2003. Al-Qaida supporters arrested in the United Kingdom in March 2004 on suspicion of planning a massive explosion in central London were found to have acquired and stored over half a ton of ammonium nitrate.[74] Similarly, the plot uncovered in Jordan in April 2004 involved large quantities of this compound.[75]

115. Besides legitimate purchases, significant quantities of ammonium nitrate are occasionally stolen from dealers and other storage sites. Suppliers in some countries already have been asked to report any suspicious purchases, limit the quantities sold to individuals, and to increase the security of their stocks;[76] but adoption and monitoring of regulatory standards is necessary to ensure uniform application of such security measures. To this effect, the United Kingdom adopted the Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations in 2003.[77] These regulations establish certifiable standards and control mechanisms on ammonium nitrate-based products and compounds, particularly those containing more than 28 per cent by weight of nitrogen. In view of the threat posed by improvised explosives and the potential to reduce the threat through national regulatory mechanisms, the Team recommends that the Council urge States to share established legislative best practice on the matter, and encourage States that have not already done so to introduce safety regulations governing the manufacture and sale of ammonium nitrate-based products with a high nitrogen content.

116. The Monitoring Team also notes that the 1999 Report of the Group of Experts on the problem of ammunition and explosives (A/54/155) contains many recommendations that, if put into effect, would significantly strengthen the implementation of the arms embargo. It therefore recommends that the Security Council add small arms and light weapons, including explosives, to the United Nations Register of Conventional Arms, and urge States to adopt the following measures regarding conventional explosives: establish authoritative national databases on explosives and supporting regulation; link national databases and points of contact into an international network; establish national controls over participants in the explosives supply chain; exchange information on the activities of illicit actors; adopt minimum standards of marking and tracing of explosives; enhance stockpile management and security; and engage in regional and bilateral technical assistance cooperation.

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[74] London Metropolitan Police web site at: www.met.police.uk/pns/DisplayPN.cgi?pn_id=2004_0043.

[75] Jordanian official briefing to the Monitoring Team.

[76] For example, the Federal Bureau of Investigation has requested the assistance of the Agricultural Retailers Association to this effect, as quoted in www.geaps.com/ingrain/2001/oct01_industry_03.cfm.

[77] Statutory Instrument No. 1082, 2003, www.legislation.hmso.gov.uk/si/si2003/20031082.htm.

E. Al-Qaida and chemical, biological, radiological and nuclear weapons

117. The Monitoring Team remains convinced that Al-Qaida retains a keen interest in acquiring chemical, biological, radiological and nuclear weapons, as demonstrated by its statements and doctrine.[78] The Consolidated List reflects this concern by the inclusion of two individuals with weapons of mass destruction-related expertise,[79] and Al-Qaida-associated groups in both the United Kingdom and Jordan have come close to mounting such attacks.[80] It seems only a matter of time before a successful chemical, biological, radiological and nuclear attack occurs.

Box 6

In January 2003, an attempt to commit a biological attack in the United Kingdom was stopped by an intelligence-led operation conducted jointly by the Metropolitan Police Anti-Terrorist Branch, the Metropolitan Police Service Special Branch and the Security Service. Officers arrested seven persons and seized a quantity of suspect material which was found to contain Ricin. Ricin can be fatal if ingested, inhaled or injected; there is no antidote.

Sources: Statements of the United Kingdom Prime Minister's Official Spokesman and the Metropolitan Police, 7 January 2003.

118. By resolution 1540 (2004), the Security Council introduced measures to prevent non-State actors gaining access to weapons of mass destruction, promoted development of national control lists and established a Committee to take forward the decisions made. The Monitoring Team has already discussed the potential synergies between its work and that of the new Committee with the Committee's Chairman, and looks forward to cooperating in any way possible to ensure that the threat of Al-Qaida, the Taliban or their associates using chemical, biological, radiological and nuclear materials is properly dealt with. The Team has undertaken considerable research on this issue and looks forward to offering specific recommendations in its June 2005 report, by which time its role vis-à-vis the Security Council Committee established pursuant to resolution 1540 (2004) will be clear.

[78] Review of intelligence on weapons of mass destruction, United Kingdom House of Commons, 14 July 2004.

[79] Senior nuclear scientist Sultan Bashir-Ud-Din Mahmood and biochemist Yazid Sufaat. See United States Terrorist Financing Fact Sheet, www.ustreas.gov/rewards/pdfs/terroristlists/list6.pdf, the National Commission on Terrorist Attacks upon the United States, the 9/11 Commission report, at 151.

[80] Metropolitan Police and Jordanian official briefings.

VIII. Travel ban

119. The Monitoring Team notes the conclusions of the September 11 Commission that "targeting travel is at least as powerful a weapon against terrorists as targeting their money".[81] The travel ban imposed by the Security Council against Al-Qaida, the Taliban and their associates does indeed provide a powerful weapon against terrorists, but the Team believes it can and should be strengthened to meet the long- and short-term challenges posed.

A. Overview

120. As the international community refines its strategies for combating terrorism, Al-Qaida and other terrorists continue to utilize both established and new methods to evade detection while travelling. False passports, visas and other travel documents, technical problems at borders, and scepticism, confusion and other deficiencies regarding the Consolidated List, all play their part.

121. As for the international response to the travel ban, there is both good news and bad to report. In submitting reports pursuant to resolution 1455 (2003), 93 per cent of reporting States indicated that they had the necessary legal measures in place to implement the travel ban. Although States were often vague in their description of the legal measures concerned, that they believed they had the means to implement the travel ban is encouraging. Another positive development, and one that should be encouraged by both the Committee and the Council, appears to be an increasing trend of international, regional, and bilateral cooperation to protect porous borders and prevent travel-related fraud.

122. Yet, the fact remains that no country has reported that it prevented a person on the List from travelling.[82] This is discouraging, given reports in the media and on the Internet — some of which may be incorrect, but certainly not all — regarding the movement of various listed individuals. In fact, it would be difficult to believe that not one of the 318 persons[83] on the List had attempted to cross a national border during the past several years. For its next report, in June 2005, the Team will follow up with some of the States to which listed persons apparently have travelled, to discover the reasons such movement went unnoticed.

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[81] September 11 Commission report, p. 385.

[82] In reports submitted pursuant to resolution 1455 (2003), five States mentioned that action had been taken against individuals trying to enter their territory, but only one State specified that the person was on the List. In that case, the United States refused entry in August 1999 to an individual listed by the United Nations over two years later, in November 2001. It is, of course, possible that States have stopped listed individuals without reporting it to the United Nations, because, for example, the incidents occurred after the States submitted their reports pursuant to resolution 1455 (2003) or because they occurred in one of the 58 States that failed to provide a report.

[83] This number does not include the 115 entities on the List.

B. Scope of the travel ban

123. As with the other components of the United Nations sanctions against Al-Qaida and the Taliban, the language and requirements of the travel ban have evolved considerably over the past several years. Currently, resolution 1526 (2004) requires States to "prevent the entry into or the transit through their territories of these individuals, provided that nothing in this paragraph shall oblige any State to deny entry into or require the departure from its territories of its own nationals and this paragraph shall not apply where entry or transit is necessary for the fulfilment of a judicial process or the Committee determines on a case by case basis only that entry or transit is justified".

124. But questions remain about the meaning of the travel ban that the Team believes only the Council can answer. As the Team noted in its July 2004 report (S/2004/679), States need guidance on what they should do if they locate a listed person at or within their borders. Related to this point, the Team recommends that the Council require States to cancel any visas or residence permits of non-nationals on the List who are found to have travelled to a Member State after their listing and return those individuals either to their country of nationality or to the State from whence they came, unless they are needed for judicial proceedings within the State, and in accordance with applicable international treaties and conventions governing, for example, asylum, extradition and refugees.[84] The Team suggests that the Council provide an exception to these rules for law enforcement, intelligence or investigative purposes.

C. Travel documents

125. The Team believes that altered and stolen passports and travel papers, identity fraud and deficiencies in border security should be the subject of international attention, including from the Council and the Committee.

1. Altered and stolen passports and other travel documents

126. Law enforcement authorities have long identified a clear link between terrorist activities and the use of stolen or fraudulent travel documents. Examples of the travel of listed terrorists and other Al-Qaida supporters using such documents abound, including the case of Lionel Dumont.[85]

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[84] In its July report (S/2004/679, para. 86), the Monitoring Team recommended that, "subject to further consideration of the legal issues", a possible new sanctions measure could call for States not to offer asylum to anyone on the List. As the Team recognized, this issue raises complex questions involving international laws and conventions dealing with asylum, extradition and refugees. The Team pledges to consider this issue further and report back in a more definitive manner in its June 2005 report.

[85] Another recent example involves the case of a 31-year-old Australian man who Australia authorities charged with terrorism-related offences in November 2003. Australian Federal Police contend that, between November 2002 and January 2003, the man, while overseas, intentionally obtained funds from Al-Qaida and altered his passport to avoid detection by authorities. The case remains pending. See www.afp.gov.au/afp/page/Media/2004/mr18112004arrestterroristsupportermelb.pdf.

Box 7

Lionel Dumont, a French national, was added to the Consolidated List on 25 June 2003. Prior to his listing, Dumont had a string of criminal offences to his name, including a murder conviction, a prison escape and involvement in an organization directly linked to the Armed Islamic Group, a listed entity, and other groups with presence in Europe. He set up infrastructures to support Islamic terrorist organizations operating in North Africa, France, the former Yugoslavia, Germany, Spain, the United Kingdom and Belgium, as well as recruited and trained individuals for terrorist activities and combat in Afghanistan and the former Yugoslavia. He is linked to numerous other listed parties and, in January 2003, was sentenced by an Italian tribunal to a five-year prison term for his terrorism-related offences.

Although he was listed by the United Nations and wanted for escaping from prison and committing a series of crimes in France and Italy, Dumont was able to leave Italy and enter Japan on a passport stolen from a French citizen. He entered Japan repeatedly between 2002 and 2003 using the false passport. He resided in Japan and opened a bank account using his false identity. He subsequently travelled to Germany, where he was arrested in December 2003. He was later extradited to France and awaits trial there.

Sources: Information provided by Member States to the Monitoring Team.

127. In addressing fraudulent travel documents, the Security Council should capitalize on work already done by Interpol, the Group of Eight[86] and other multinational bodies. The Monitoring Team is discussing with Interpol how best to coordinate efforts against Al-Qaida, the Taliban and their associates, and can describe various systems in place that may enhance the effectiveness of the sanctions regime.

128. In 2002, after conducting an analysis of terrorist travel patterns, Interpol created a database of stolen and lost travel documents to facilitate a global exchange of information. Many Governments and international organizations have endorsed its use, including the Group of Eight Ministers, EU and dozens of countries.[87] The Team believes that the Council and the Committee should do so, as well.

129. Details of approximately 6.1 million travel documents from 54 countries are currently registered in the Interpol database. Nearly 430,000 of the stolen/lost travel documents are blank, including a large number of passports. Because photographs,

[86] In a June 2004 summit, the Group of Eight agreed on a Secure and Facilitated International Travel Initiative, a 28-point action plan to, among others, enhance travel document security; develop national analytical capabilities and international cooperation related to travel security; set up a network to share and respond to urgent security issues; and evaluate and develop the security of air- and seaports. The Group of Eight also reiterated its support for international standards developed by ICAO and IMO. See www.g8usa.gov/pdfs/safti.PDF.

[87] The Monitoring Team obtained the details of the Interpol efforts from Interpol officials and the Interpol Internet site, www.interpol.org.

descriptions and aliases can be easily added to these documents, they are particularly valuable to terrorists and other criminals. All of the information on stolen and lost travel documents is available to Interpol's 182 member States 24 hours a day, seven days a week, every day of the year.[88] Yet, only 54 States provide information to this database, meaning that well over two thirds of States members of Interpol (and the United Nations) do not share such information globally.[89] As the Interpol Secretary General has commented, "failing to share such critical information equates to allowing terrorists to plan and carry out their acts".[90]

130. As a result, the Team recommends that the Security Council urge Member States to: (a) join Interpol; (b) register stolen and lost passports and other travel documents with Interpol; (c) ensure that stolen and lost passports and other travel documents are invalidated immediately, preferably via electronic systems available nationally and/or internationally; and (d) follow international standards, such as those suggested by ICAO and Interpol, in creating, issuing and regulating passports and other travel documents.

2. Applications for visas and other travel documents

131. In addition to cancelling all visas and residence permits for listed non-nationals of a State, as suggested in paragraph 124 above, the Monitoring Team recommends that the Council urge States to add a question to all visa, entry, transit and other travel and entry forms asking whether the respondent is named on the Consolidated List (or on other regional or national terrorism lists). If persons answer in the affirmative, then they simply could be denied entry into the State, unless the relevant exceptions to the travel ban exist. If they claim they are not on the List and their falsehood is discovered, they could be detained for making false statements on an official government document.[91] During the period of their detention, the State could take the necessary time to consult with other States to decide whether to prosecute them for their false statements or return them to their State of nationality, the State from whence they came or another relevant State.[92]

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[88] Interpol introduced an emergency measure this year to permit United Nations security officers to ask Interpol to verify whether certain identity or travel documents had been reported stolen, thereby allowing enhanced screening of visitors to United Nations offices.

[89] Interpol has 182 member States (see www.interpol.int/Public/Icpo/Members/default.asp) compared with the 191 Member States of the United Nations.

[90] Speech by Ronald K. Noble, Secretary General of Interpol, 4 June 2004 (www.interpol.org). The General Assembly of Interpol adopted in October 2004 resolution No. AG-2004-RES-02 on the active contribution by member States to the stolen travel documents database.

[91] Whether such individuals could be prosecuted probably would depend upon the circumstances of each case, including whether the State could prove that they knew they were on the List when they swore to the contrary.

[92] This procedure also could resolve the dilemma the Team raised in its previous report (S/2004/679, para. 71) when it questioned whether a State that located a listed individual should detain and prosecute them or invite the State that proposed the listing to seek extradition. Because the Committee does not require criminal standards of evidence for inclusion on the List, a criminal proceeding may not be possible where a listed person is located at a border unless he: (a) falsely stated he was not listed on a travel document; (b) violated any applicable State law forbidding travel for listed individuals; or (c) was the subject of an international arrest warrant (as outlined in paras. 138-142 below).

3. Port security

132. Improved security at the world's ports is also necessary to prevent terrorists (and the weapons they intend to use) from travelling to a target State (see box 8). A United States official, for example, cited an incident in early 2005 when two suicide bombers entered a port in Israel concealed in a cargo container and launched an attack that succeeded in killing dozens of people. And, in October 2001, Italian authorities found a suspected Al-Qaida operative hidden within a shipping container leaving Egypt and bound for Canada. Along with the would-be terrorist, the container held airport maps, airport security passes and a fraudulent aeroplane mechanic's certificate.[93] The Council and Committee should continue to encourage international cooperation in improving maritime security, including the valuable work being done by the International Maritime Organization (IMO) and its 164 member States.[94]

Box 8

In December 2004, the Team, along with a Counter-Terrorism Committee expert, visited a seaport in Newark, New Jersey, to view recent initiatives being implemented by the United States Customs and Border Protection to protect a region that suffered first-hand from the attacks on 11 September 2001. Many of the programmes being implemented there, at one of the world's busiest cargo ports, directly relate to the Al-Qaida/Taliban sanctions, particularly the arms embargo (and protection from weapons of mass destruction) and the travel ban. The Team suggests that the Council and the Committee recommend that other Member States consider similar initiatives, including:

- A joint programme with officials from dozens of the world's largest seaports, whereby the United States and foreign Governments cooperate to pre-screen high-risk containers before they leave for a foreign port and to require the use of more tamper-proof and -evident containers;
- Stationary and mobile radiation detection units to screen inbound and out-bound cargo for high-risk weapons and materials;
- A "24-hour rule" that requires shippers to transmit electronically bill of lading data at least a day before loading for import or export, thereby permitting customs officials to assess security threats before material is even loaded onto ships;
- A public-private programme in which importers, brokers, air, rail and sea carriers, and manufacturers, among others, satisfy certain security standards in advance that allows them to export and import products faster and with fewer restrictions.

Source: United States Customs and Border Protection officials and Internet site www.cbp.gov

[93] Statement by Robert Bonner, Commissioner, United States Customs and Border Protection, Department of Homeland Security, 15 July 2004, available at www.customs.gov/xp/cgov/newsroom/commissioner/speeches_statements/archives/jan172002.xml.

[94] For more information about these efforts, see www.imo.org.

D. Other travel ban-related issues

133. Among other travel ban issues that deserve attention are: technical matters related to the application of the Consolidated List; movement of listed persons within visa-free and freedom-of-movement areas; and the technical modalities for cooperation with Interpol. The Monitoring Team will work further on all of these issues to eliminate gaps in the global implementation of the travel ban, and to fully utilize existing capabilities for strengthened implementation of the ban through enhanced coordination among international organizations and the Member States.

1. Consolidated List

134. The problems identified with the Consolidated List in paragraphs 28-41 above affect in particular ways the implementation of the travel ban. States repeatedly have reported to the Monitoring Team their concerns at the lack of identifiers on the List and its impact on their ability to enforce the travel ban. The Team repeats its prior recommendation that the Council and the Committee urge States to continue providing updates and additions for the identifiers to make the List as good as it can reasonably be. At the same time, however, the Team believes that States should not be permitted to use a lack of identifiers and other technical problems with the List as an excuse not to enforce the travel ban and other sanctions to the greatest extent possible. Austria and the United States both reported that, although they placed on their national lists all those persons included on the Consolidated List, certain of their databases omitted names with insufficient identifiers to comply with technical requirements.[95] With the agreement of the Committee, other States could do the same while the Committee and Member States strive to improve the List.

2. Freedom of movement and visa-free zones

135. A related issue for the Committee's attention is the impact on the travel ban of the visa-free and freedom of travel zones being established in different regions of the world,[96] for example within the European Union and between those EU and non-EU States that are party to the Schengen Agreement.[97] The European Union guarantees its citizens freedom of movement within the territory of its 25 Member States, while the Schengen Agreement has eliminated border controls between its

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[95] See S/AC.37/2003/(1455)/27, pp. 2 and 3; S/AC.37/2003/(1455)/26, pp. 3, 13 and 14.

[96] The Economic Community of West African States and the Southern Cone Common Market (Mercosur) in South America are examples of visa-free zones. Similar zones also have been created through bilateral agreements between some member States within the Commonwealth of Independent States and the Association of Southeast Asian Nations. The Monitoring Team intends to examine potential difficulties such zones may cause for implementation of the travel ban.

[97] The parties to the Schengen Agreement include the EU States of Austria, Belgium, Denmark, France, Finland, Germany, Greece, Italy, Luxembourg, the Netherlands, Portugal, Spain and Sweden and two non-EU States, Iceland and Norway. In addition, Switzerland has signed an agreement to join aspects of the EU and Schengen systems, but has not yet ratified it. In addition to the border control changes, the Schengen Agreement establishes a common visa policy for Member States and enhances cooperation between police and judicial authorities. For more information about EU and the Schengen Agreement, see europa.eu.int/comm/justice_home/fsj/freetravel/frontiers/wai/fsj_freetravel_schengen_en.htm.

parties, while strengthening controls at the external Schengen area border.[98] Accordingly, if an individual on the Consolidated List resides within an EU or a Schengen State, he may be able to travel freely across most of Europe, unless hindered by legal obstacles.

136. In implementing the travel ban, the Schengen States address the absence of internal border controls through measures such as enhanced police and judicial cooperation. EU also permits exceptions to the free movement principle for reasons of public policy, public health and public security.[99] In addition, national law enforcement and judicial authorities retain the power to take all appropriate measures within their territory toward persons, including their own citizens, who have committed (or are suspected of having committed) terrorist offences. Listed individuals may fall within these categories.

137. While the EU and Schengen States aim to ensure that their systems provide adequate protection against the travel of listed individuals, the Team has begun discussions with relevant national authorities, as well as regional officials, about this issue and intends to follow up with them and officials from other visa-free zones to learn how they are instituting the travel ban. The Team will report its specific findings to the Committee in its third report in June 2005.[100]

3. Role of Interpol's international notices system

138. Interpol routinely issues colour-coded notices to law enforcement agencies throughout the world to advise them of persons wanted for criminal activity or other possible threats. Red notices are issued to seek the arrest and extradition of persons based upon the existence of an arrest warrant; blue notices are used to collect additional information about a person's identity or illegal activities in relation to a criminal investigation; green notices provide warnings and criminal intelligence about persons who have committed offences and may be likely to repeat those offences elsewhere; and other colour-coded notices indicate other categories of individuals of interest.[101] All of these notices, and information on other persons of interest, are included in Interpol's databases available through its global communications system to police forces of States members of Interpol all day, every day. Although the colour of the notice issued in a particular case depends upon whether an arrest warrant or other process exists, all individuals added to the Consolidated List as belonging to or associated with Osama bin Laden, Al-Qaida or

[98] EU has recognized the dangers posed by its open borders, noting that "the activities of international terrorist groups and criminal organizations benefit from and use this freedom". See europa.eu.int/comm/justice_home/fsj/police/wai/fsj_police_intro_en.htm.

[99] See articles 39(3), 46, 55 and 58(1)(b) of the EC Treaty, and Directive 2004/38/EC.

[100] This does not imply that these States need to re-establish border controls, but only ensure the adequacy of their laws and procedures necessary to implement the United Nations sanctions. Thus, although the lack of border controls might make it easier for a listed person to violate the travel ban within the EU and Schengen States, any such violations that are discovered should be subject to penalty — assuming the State could prove, for example, that the person knew he was on the List. This latter point demonstrates a reason in support of individual notification, where possible, of a United Nations listing, as discussed in paragraphs 53-60 above.

[101] Interpol fact sheet on the international notices system, available at: www.interpol.int/public/ICPO/FactSheets/FS200105.asp.

the Taliban certainly merit notification to Interpol.[102] Given the frequent distribution of Interpol data through national police forces to border points, this notice would, in turn, assist member States to enforce the sanctions, particularly the travel ban.

139. Currently, listed individuals do not appear on Interpol notices, unless an Interpol member State so requests. Following discussion with Interpol, the Team offers recommendations in three areas. First, as for Interpol's international notices system, the Team recommends that the United Nations and Interpol examine the current memorandum of understanding and, if necessary, supplement that agreement to ensure effective cooperation in the area of notices issued on the request of the Security Council (or the 1267 Committee). In fact, notices already are being issued in comparable situations, such as by the International Tribunals for the Former Yugoslavia and Rwanda and the International Court for Sierra Leone, to seek persons wanted for serious violations of international law on human rights.[103] If these Tribunals can reach a memorandum of understanding with Interpol for the issuance of Interpol notices, the Security Council should consider whether it wishes to be accorded the same rights.

140. Second, as for Interpol's database (which includes the international notices system), the Team has already supplied a copy of the List to Interpol officials, but it suggests that the Committee send a letter to Interpol, enclosing the List and formally requesting that Interpol add the names to its database, irrespective of whether or not a notice ultimately is issued. To meet Interpol's requirement for information on individuals within its database, the Team proposes that the Committee permit all the statements of case and press releases for listed individuals to be released to Interpol. That would allow Interpol to maintain the relevant information on each person for the use of police officers worldwide, if and when a listed individual is stopped or investigated.[104]

141. The Team also proposes that the Council and the Committee encourage — or even require, subject to certain law enforcement or intelligence needs — Member States to notify Interpol through their national police forces about persons they propose to suggest for addition to the Consolidated List, especially those subject to an arrest warrant, or explain why this has not been done. In addition, the Team suggests that the Council and the Committee urge States to submit to Interpol, through their national police forces, the relevant notification and identifying data — including DNA profiles, fingerprints, and photographs, where available — concerning persons who already appear on the List. This notice could come from States that proposed the name for listing to the United Nations, States of origin or residence for the listed person or a third-party State with relevant information.

142. Finally, to improve the Consolidated List, Interpol has agreed to check its registry of persons against those on the List. Where Interpol possesses additional

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[102] At a minimum, where a national arrest warrant exists for a person on the Consolidated List, the issuing State should request Interpol to circulate a red notice, an international arrest warrant, to all its member States.

[103] Interpol fact sheet GI/02.

[104] If the Committee endorses this recommendation, the Team could work with the Secretariat to gather a copy of all statements of case and press releases for listed individuals for transmission to Interpol. For each future listing, the Secretariat (or the Team, if necessary) could send the statement of case and press release to Interpol along with the note verbale.

data relevant to a United Nations listing, it will provide the data to the Committee or Team, subject to its internal rules and regulations. This process should help the Committee to ensure that sufficient identifiers and other relevant information appear on the Consolidated List to permit States to enforce the sanctions effectively. The Team will continue to work with Interpol to pursue this matter, but recommends that the Committee request Interpol to check its database for additional information for the names on the List.

IX. Monitoring Team activity

143. The Team has worked closely with the Committee, providing a written assessment of Member States' compliance based on reports submitted in line with resolution 1455 (2003), briefing notes for the Chairman's trips and advice as requested on other issues. The Team has also worked closely with the Committee and the Secretariat on the Consolidated List, which the Team sees as the key element of a successful sanctions regime. The Team has proposed amendments based on wide consultation with Member States and has encouraged States to submit new names with positive results.

144. The Team has visited 12 States since it last reported (in July 2004) to understand the local perception of the threat and look at implementation efforts. These included to Southeast Asia (Indonesia, Malaysia, the Philippines and Singapore), Africa (Burkina Faso, Ghana and Nigeria), the Middle East (Saudi Arabia, the United Arab Emirates and Yemen) and to individual States such as Morocco and the United States.[105] The Team has also worked with States that have so far not reported to the Committee in accordance with resolution 1455 (2003). Four more States have now done so.

145. The Team has met officials from a variety of international and regional organizations, including Interpol, as discussed above, and the European Commission. The Team also attended meetings and conferences with other multinational groups, including various FATF regional-style bodies and EU. The Team hosted a meeting of the intelligence and security services of five Arab States to discuss the threat and the potential for further measures to address it.

146. The Team is in frequent touch with other United Nations counter-terrorism bodies. With respect to the Counter-Terrorism Committee and its Executive Directorate, the Team has engaged in a continuing dialogue and has shared relevant information, in particular where States have sought assistance. The Team invited Committee experts to participate in meetings on various issues of common interest, including a round-table discussion with top officials of the United States Department of the Treasury, a discussion with visiting scientists conducting a study on counter-financing of terrorism measures for the Government of Norway, and a visit to a New York/New Jersey seaport to observe recent United States customs and border patrol initiatives. The Team is also in close touch with the United Nations Office on Drugs and Crime, its Terrorism Prevention Branch, and its field offices in Member States (useful on issues such as the current role of illicit drug cultivation in

[105] The Team prepares trip reports after its travels and circulates them to the Secretariat for transmission to the Committee. The Team amplifies these with oral presentations as requested.

financing terrorism).[106] The Team frequently has exchanged information with the Office's Global Programme against Money Laundering, with each representing the other's mandate at certain international meetings where one party has been unable to attend.

147. After lengthy consultations, the Team has also agreed with the Secretariat the design of an appropriate database to store and manage information obtained by the Team regarding each of the 191 Member States, and appropriate international and regional organizations. The database will also meet the needs of other United Nations bodies

X. Future work

148. In the lead up to its next report, due in June 2005, the Monitoring Team will continue to pursue the two main planks of its mandate: to monitor the implementation of the sanctions regime by Member States, and to recommend to the Security Council how the measures might be improved. On the first point, the Team will continue to engage Member States, including through visits. On the second, the Team will address the themes mentioned in this report, in particular working with the 1540 Committee on the issue of weapons likely to cause mass casualties.

149. A further area of growing concern is the use of the Internet, which provides Al-Qaida with the ideal means to recruit and communicate with its supporters. Through the Internet it can raise money, train, plan and execute terrorist operations with very little risk of discovery and no need to travel. It is an ideal networking tool. The nature of the Internet allows a small group of religious deviants to influence a far wider group with little expense of money or effort (see annex V).

150. Insofar as the sanctions regime aims to limit the capacity of Al-Qaida and Taliban leaders to continue their operations, the Monitoring Team believes that the Security Council should consider what action is possible against their use of the Internet. The Team recognizes that there are considerable legal, ethical and practical difficulties with preventing the criminal use of the Internet, and that work is in hand in other areas, such as against child pornography. It proposes that with Member States and appropriate international bodies, and before its June report and the conclusion of its mandate, the Team look at these issues more closely in an attempt to make concrete proposals for the Council's possible consideration of, among other things:

(a) Restricting the provision of certain Internet services to individuals and entities on the Consolidated List;

(b) Introducing due diligence and know your customer rules for Internet Service Providers;

[106] The field offices of the United Nations Office on Drugs and Crime frequently are in areas particularly relevant to the Team. For example, the Regional Office for Eastern Africa, based in Nairobi, covers eight of the East African States Members of the United Nations that have not submitted a resolution 1455 (2003) report. The Team has forwarded the list of non-reporting States to the Terrorism Prevention Branch, which has agreed to assist in encouraging the relevant States to submit their reports.

(c) Making clear that those providing Internet services designed to promote acts of terrorism in support of Al-Qaida and Taliban objectives will be subject to possible inclusion on the Consolidated List.

151. The Team also hopes to build on its initiative in bringing together senior Intelligence and Security Officials from various parts of the world to discuss the effectiveness of the sanctions regime and ways to improve it. These regional groups will allow the Committee and the Security Council, through the Team, to access a depth of experience and expertise which should provide not only a sophisticated assessment of the nature of the threat, but also practical ideas for further work solidly based on a true understanding of the strengths and weaknesses of Al-Qaida and associated terrorists.

152. The Team's meeting of senior Intelligence and Security Officials from Arab States showed an encouraging enthusiasm to work with the Security Council on threats that all recognized could not be dealt with on a national basis. The participants agreed that a key imperative was to address the circulation of extremist material and counter the appeal of Al-Qaida propaganda. They recognized that little could be done to prevent Al-Qaida exploiting existing conflicts, but looked for practical measures to undermine its subversive message, for example by promoting moderate clerics and statements by repentant terrorists. They saw value in extending and bringing up to date the Consolidated List and seeking new measures that would address Al-Qaida communications and the exploitation by Al-Qaida and its associates of refugee and asylum laws. They agreed to consider further ideas and reconvene in 2005.

153. The Team also hopes to receive the Committee's agreement to provide a mechanism for engaging a far wider range of Member States in its work. It believes that States will welcome this and will respond positively to invitations to contribute to the List and other aspects of the Committee's work. This in turn will win further support for the sanctions regime and a greater commitment to compliance.

154. The Team will also aim to identify more clearly those States that could do more to implement the sanctions, but for whatever reason choose not to do so. It will aim to engage these States to explain the importance of the Committee's work and its objectives; but if unsuccessful, it will suggest to the Committee ways in which these States might be persuaded to contribute better to the international effort against Al-Qaida and the Taliban and associated individuals and entities.

Annex I

Proposed checklist to be completed by States with respect to each individual and entity added to the Consolidated List

Within 60 days of notification by the United Nations of a new name added to the List, each Member State shall complete the following form* and submit it to the Committee:

Name of listed individual or entity: _____

1. Has this name been added to your State's national list, registry, database, etc., of terrorists?

   Yes _____ No _____

2. Has this name been circulated to your central bank and all other banks within your State?

   Yes _____ No _____

3. Has this name been circulated to non-banking financial institutions, i.e., pension, insurance and financial leasing companies, foreign exchange bureaus, securities firms and credit unions?

   Yes _____ No _____

4. Has this name been circulated to businesses and professionals, i.e., accountants, attorneys, trust administrators, business registrars, financial advisers, precious commodities dealers, and real estate, tax and travel agents?

   Yes _____ No _____

5. Has this name been circulated to alternative remittance systems?

   Yes _____ No _____

6. Has this name been circulated to charitable organizations?

   Yes _____ No _____

7. Have the institutions listed above (questions 2-6) checked for assets/transactions under this name?

   Yes _____ No _____

8. When this name was circulated to the above institutions, were they instructed to notify the authorities in case of a match?

   Yes _____ No _____

* Please answer each question fully, unless specific intelligence, investigative or national legal requirements prevent it. Provide additional sheets of paper, if necessary.

9. Have any assets linked to this name been located?

Yes _____ No _____

If yes, specify amount _____

10. Have any assets linked to this name been frozen?

Yes _____ No _____

If yes, specify amount _____

Not applicable (no assets located) _____

11. Has this name been circulated to embassies, consulates, customs and border agents and all ports of entry?

Yes _____ No _____

12. Has this individual or entity been located within your State or at the borders or other ports of entry?

Yes _____ No _____

If yes, provide details, including address and other location information, if known.

13. Has this name been circulated to officials responsible for enforcing the embargo on arms?

Yes _____ No _____

14. Do you possess additional identifying or other information about this name?

Yes _____ No _____

If yes, provide additional information.

15. If the answer to any question (other than 9, 12 or 14) is no, please explain and provide additional information.

Member State Name _____

Name, address, telephone number and E-mail of official completing form _____

_____

_____

_____

_____

_____

_____

_____

Annex II

Litigation by or relating to individuals and entities on the Consolidated List

A. European Union

1. In the European Union cases, the common grounds alleged were violations of basic human rights, particularly the principle of the right to a fair and equitable hearing and, in one case, the freedom to revolt; legal property rights within the European Community; the Community law principles of subsidiarity and proportionality; the rights to reputation, freedom of expression and freedom of association. At least four of these cases directly referred to the Consolidated List, alleging that the Council of the European Union and/or the Commission of the European Communities had abused their respective powers by adopting regulations implementing the Security Council financial sanctions on individuals and entities on the List. These cases asserted that the Council and/or Commission did not have the authority to decide for their Member States how to enforce the United Nations sanctions. Decisions in the cases before the Court of Justice are expected in 2005 and are summarized below.

2. In case No. T-306/01[a] three of the applicants — Abdirisak Aden, Abdulaziz Ali and Ahmed Yusuf — were Swedish citizens of Somali origin, while the fourth applicant, Al Barakaat International Foundation, was a non-profit-making organization registered under Swedish law, which, inter alia, assisted in financial transactions between residents of Sweden and Somalia. The applicants' case argued that (a) the Council had exceeded its powers in issuing the relevant regulations to enforce resolution 1333 (2000); and (b) as the Council had failed to examine why the onerous financial sanctions were imposed on the applicants, the fundamental principle of the right to a fair and equitable hearing had been disregarded. The first two applicants have been de-listed by the United Nations, while the latter two remain on the list. On the Consolidated List, the first applicant is in section E (de-listed); the second applicant is also in section E (de-listed); the third applicant appears to be in section C as Ali Ahmed Yusaf; and the fourth applicant appears to be in section D as Barakaat International Foundation.

3. In case No. T-315/01,[b] the applicant, Yassin Abdullah Kadi, a Saudi Arabian citizen with substantial financial interests within the European Union, submitted that the sanctions measures applied against him in the relevant Council and Commission regulations violated his fundamental legal property rights with the European Community, his right to a fair hearing and the Community law principle of effective judicial control as there was no remedy for him to challenge the evidential basis for his inclusion on the List. On the United Nations List, the applicant appears to be in section C as Yasin Al-Qadi.

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[a] Case No. T-306/01 (Abdirisak Aden and three others versus the Council of the European Union and the Commission of the European Communities), OJ C 44, 16 February 2002, p. 27, and OJ C 35, 7 February 2004, p. 19.

[b] Case No. T-315/01 (Yassin Abdullah Kadi versus the Council of the European Union and the Commission of the European Communities), OJ C 56, 2 March 2002, p. 16, and OJ C 35, 7 February 2004, p. 19.

4. In case No. T-318/01,[c] the applicant, Omar Mohamed Othman, a Jordanian citizen residing in the United Kingdom, challenged the Council and the Commission on the grounds that they had misused their powers by adopting the relevant regulations to extend the freezing of assets measures in respect of the Taliban and Afghanistan and naming the applicant in the said regulations, that his human rights had been violated and that the measures were disproportionate and in violation of the principle of subsidiarity. On the United Nations List, the applicant appears to be in section C as Uthman Omar Mahmoud.

5. In case No. T-253/02,[d] the bank accounts of the applicant, Chafiq Ayadi, resident of Ireland, were frozen. His claims against the Council were that (a) the Security Council sanctions measures against Al-Qaida, etc., did not impose a duty on States Members of the United Nations to apply those measures and the Member States were free to choose how to respond to the Security Council's call; (b) the Council did not have the power to enact the regulation in question under European Community laws and had therefore misused its powers; and (c) the regulations infringed fundamental principles of Community law, in particular, the principles of subsidiarity and proportionality and respect for human rights. On the United Nations List, the applicant appears to be in section C as Ayadi Shafiq Ben Mohamed.

6. In case No. T-49/04,[e] the applicant, Faraj Hassan, a resident of the United Kingdom, contested the freezing of his assets under the relevant regulations adopted by the Council on the grounds that they violated (a) his fundamental human rights in the peaceful enjoyment of his property, family and private life; (b) his right to a fair hearing or effective counter remedy; and (c) the principle of proportionality. On the United Nations List, the applicant appears to be in section C as Faraj Farj Hassan Al Saadi.

B. Italy

7. One lawsuit has been filed in an Italian court against the Government of Italy regarding a United Nations listing. In January 2003, Nasco Business Residence Center SAS filed suit before the Tribunal of Milan against the Italian Ministry of the Economy and Finance. Nasco, owned by Nasreddin Ahmed Idris (a listed individual), requested the release of its frozen assets and its removal from the EU list (which automatically incorporates the United Nations List and its updates). The company claimed that there was no substantial reason for it to be included on the list, and that its inclusion violated the European Union Treaty, the European Convention on Human Rights (the right to property and the freedom of economic initiative) and the Italian Constitution. The Tribunal rejected the suit based on a lack of jurisdiction, because the EU regulations do not foresee that national courts can adopt provisions contrary to sanctions imposed by EU. To date, no form of appeal or other judicial initiative has been filed.

[c] Case No. T-318/01 (Omar Mohamed Othman versus the Council of the European Union and the Commission of the European Communities), OJ C 68, 16 March 2002, p. 13.

[d] Case No. T-253/02 (Chafiq Ayadi versus the Council of the European Union and the Commission of the European Communities), OJ C 289, 23 November 2002, p. 25.

[e] Case No. T-49/04 (Faraj Hassan versus the Council of the European Union and the Commission of the European Communities), OJ C 94, 17 April 2004, p. 52.

C. Pakistan

8. Pakistan indicates in its report under resolution 1455 (2003) that an entity, the Al-Rashid Trust, has filed a petition against the freezing of its assets with the local court (High Court of the southern province of Sindh) and has requested assistance for evidence/information in support of the Government's freezing of the entity's assets in order to strengthen the Government's case. The Monitoring Team has asked for further information from Pakistan on this case.

D. Turkey

9. Turkey has faced two legal challenges to United Nations listings, one by an individual, Yasin Al-Qadi, and the other by an entity, Nasco Nasreddin Holding AS, with both claiming they were listed incorrectly, for political reasons, and in violation of their rights. On 27 February 2002, Al-Qadi filed a lawsuit against the Office of the Prime Minister and the Ministries of Justice and Foreign Affairs, seeking an annulment and immediate request for a stay of execution of the decision of the Council of Ministers to freeze the assets of the parties on the List. The Council of State in Ankara rejected his request for a stay of execution on 12 July 2002, and the Administrative Law Decision of the Council of State approved the rejection at its plenary session on 15 November 2002. Although the suspension decision has been rejected, a final decision on the requested annulment is pending.

10. Nasco Nasreddin Holding brought suit against the Office of the Prime Minister on 14 January 2003. It, too, requested an annulment and immediate request for a stay of execution of the decision of the Council of Ministers to freeze the assets of listed parties. The Council of State in Ankara rejected the request for a stay of execution on 11 June 2003, and the Administrative Law Decision of the Council of State approved the rejection at its plenary session on 18 September 2003. As with Al-Qadi's case, the final decision on the annulment sought is pending.

E. United States

11. Four lawsuits have been filed in the United States by entities and individuals listed by the United Nations (and by the United States). The cases involved organizations based, at least in part, in the United States (one of which was headed by a Somalia-born United States citizen, Garad Nor). Two of the groups were charities: Benevolence International Foundation and Global Relief Foundation (listed in 2002 along with various foreign offices). The other two — Aaran Money Wire Service and Global Service International — were money remittance firms, the first of which was headed by Mr. Nor.[f] In each of these cases, the entities and individual challenged the United States Government's action in designating them as supporters of terrorism and freezing their assets. Although the litigants did not raise the United Nations listing as subject to challenge, they claimed that their listing by

[f] The United States report pursuant to resolution 1455 (2003) listed another case, see S/AC.37/2003/(1455)/26, p. 4 (citing *Holy Land Foundation v. Ashcroft*, No. 02-CV-442 (D.D.C.)), but that case involved an entity designated as a terrorist or supporter of terrorism by the United States, but not listed by the United Nations.

the United States violated their rights to, among others, due process and freedom of speech, association and religion.

12. All of these challenges have, to date, been rejected or dismissed. Benevolence International Foundation voluntarily dismissed its case and accepted its listing in 2003 after its Executive Director pleaded guilty to a criminal felony charge and admitted that he had diverted funds intended for the group's humanitarian work to Bosnian and Chechen fighters.[g] In 2002, a federal district court and an appellate court dismissed the emergency petition and constitutional claims of Global Relief Foundation, while a decision on the remaining claims is pending.[h] As for the lawsuits filed by the money remittance firms and Mr. Nor, the court dismissed the cases in 2003 after they were de-listed by the United States and the United Nations.[i]

13. In addition to these cases, a coalition of organizations sued the United States in November 2004, challenging a new United States policy requiring charities that solicit funds through a federal programme to certify that they do not knowingly employ individuals or contribute funds to entities found on the United Nations List or the terrorism lists of the United States and EU. Because the lawsuit was filed only in November 2004, a decision in the matter is not expected for some time.[j]

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[g] See *Benevolence International Foundation Inc. v. Ashcroft*, No. 02-CV-763 (N.D. Ill. 25 February 2003); *United States v. Arnaout*, No. 02-CR-892 (N.D. Ill. 10 February 2003).

[h] See *Global Relief Foundation Inc. v. O'Neill*, 315 F.3d 748 (7th Cir. 2002); *Global Relief Foundation Inc. v. O'Neill*, 207 F. Supp. 2d 779 (N.D. Ill. 2002).

[i] See *Aaran Money Wire Service Inc. et al. v. United States*, Nos. 02-CV-789, 02-CV-790 (D. Minn. 8 December 2003).

[j] See *American Civil Liberties Union Foundation et al. v. United States Office of Personnel Management* (D.D.C. 10 November 2004), located at www.aclu.org/SafeandFree/SafeandFree.cfm?ID=16239&c=206.

Annex III

Cast study: Benevolence International Foundation

1. One of the charities listed by the United Nations is Benevolence International Foundation (BIF), a quintessential example of how an organization with an admirable purpose can be used to funnel money to sponsor terrorism and violence across the globe.[a]

2. BIF was incorporated in the United States in 1992 and grew substantially over the years. It opened offices in at least 10 countries and provided tens of millions of dollars of "humanitarian aid" to regions around the world (including many areas of conflict), such as Afghanistan, Azerbaijan, Bosnia and Herzegovina, Pakistan and Tajikistan, as well as Daghestan and Ingushetia. BIF and its leaders, including Executive Director Enaam Arnaout, claimed its donors' money was "spent solely for charitable, humanitarian purposes".

3. Although authorities had investigated certain suspicious practices of BIF over the years, the United States and other countries only began to take action against the organization after the attacks on 11 September 2001. In the United States, the company's assets were frozen pending investigation in December 2001, while Bosnian authorities conducted a criminal search of BIF offices there in March 2002. The Bosnian search yielded "compelling evidence of links between BIF leaders, including Arnaout," and Osama bin Laden and other Al-Qaida leaders, going back to the 1980s. The material seized included many documents never before seen by United States officials, such as the actual minutes of Al-Qaida meetings, the Al-Qaida oath, Al-Qaida organizational charts, and the "Golden Chain" list of wealthy donors to the Afghan mujahedin, as well as letters between Mr. Arnaout and Osama bin Laden, dating to the late 1980s. The letters between the two men and other evidence showed that Mr. Arnaout had functioned as an administrator for Osama bin Laden, disbursing funds and signing on his behalf.

4. In justifying its permanent freezing of BIF assets in November 2002, the United States Department of the Treasury noted that BIF and its leaders had substantial ties to Al-Qaida and Osama bin Laden (in addition to those described above), including (a) BIF "provided direct logistical support" for an Al-Qaida member and Osama bin Laden lieutenant, Mamdouh Mahmud Salim, to travel to Bosnia and Herzegovina in 1998;[b] (b) telephone records linked BIF to Mohammed Loay Bayazid, who had been implicated in Al-Qaida's effort to obtain enriched uranium in 1993/94, and Bayazid's drivers licence application in 1994 listed the BIF

[a] This case study was derived from documents utilized in the criminal and civil cases involving BIF and Executive Director Enaam Arnaout in the United States; the 9/11 Commission Staff Monograph; and information provided by Member States to the United Nations.

[b] The United States indicted Mr. Salim along with Osama bin Laden and others on numerous counts alleging a global terrorist conspiracy to murder United States citizens, including charges relating to the 1998 bombings of the United States embassies in Kenya and the United Republic of Tanzania. Testimony at the 2001 trial of *United States v. Bin Laden, et al.*, implicated Mr. Salim in efforts to develop chemical weapons on behalf of Al-Qaida in the 1990s and attempts to obtain nuclear weapons components. While in jail in the United States, Salim stabbed a guard in the eye with a sharpened comb — leaving the man with permanent brain damage — and he later pleaded guilty to conspiracy to the murder of United States officials and attempted murder. See *United States v. Salim*, No. 01-CR-002 (SDNY 2003), *appeal pending*. Salim is not, however, on the Consolidated List.

office address as his own address; and (c) a member of Al-Qaida's Shura Council served as an officer in the Chechnya office of BIF. The material against BIF also demonstrated that the organization had "altered its books to make support for an injured Bosnian fighter appear as aid to an orphan".

5. The United States Government subsequently filed terrorism and related criminal charges against Mr. Arnaout, BIF Executive Director. In addition to the evidence mentioned above, the indictment outlined details of his illicit activities including that he, as head of BIF, had diverted donor money for humanitarian supplies to support fighters in Bosnia and Herzegovina and Chechnya (such as buying them military supplies, including uniforms and communications equipment). For the Chechen fighters, he had also supplied 2,900 pairs of steel-reinforced anti-mine boots. Ultimately, in February 2003, Mr. Arnaout pleaded guilty to a criminal conspiracy charge and admitted that he had concealed from donors and potential donors the fact that he had diverted "a material portion of the donations received by BIF" to "support fighters overseas," including supplies for combatants in Bosnia and Herzegovina and Chechnya. The court determined that he and BIF had diverted more than $300,000 from the charity's humanitarian goals to support fighters abroad. He was sentenced to 11 years and four months in prison.

6. On 21 November 2002, the United Nations added BIF to the Consolidated List, noting more than 20 countries and regions in which it was located,[c] as well as two other names — Benevolence International Fund and Bosanska Idealna Futura — under which it operated. However, other than the United States, only three Member States have reported to the United Nations (in the reports pursuant to resolution 1455 (2003)) that they froze assets or took other action against the organization.[d] The Team intends to follow up with the remaining States in which the entity was reported to have been located to determine their findings or actions, if any, and will include details in its next report to the Committee.

[c] The United Nations listing of BIF includes, in addition to the United States, locations in Afghanistan, Azerbaijan, Bangladesh, Bosnia and Herzegovina, Canada, Chechnya, Croatia, Georgia, the Netherlands, Pakistan, the Russian Federation, Saudi Arabia, the Sudan, Tajikistan, the United Kingdom and Yemen, as well as Daghestan, the Gaza Strip, and Ingushetia.

[d] The other three States were Azerbaijan, Bosnia and Herzegovina and the United Kingdom. Media reports suggested that Bangladesh had frozen Benevolence accounts in October 2004, but these reports could not be confirmed prior to publication of the present report.

Annex IV

Case study: Arrest of foreign exchange dealer in the Philippines

1. Jordan Mamso Abdullah, a foreign currency exchange dealer in Cotabato City, Mindanao, Philippines, was arrested in April 2004 for his part in the movement of terrorist funds sent to the Philippines from Al-Qaida's Khalid Shiekh Mohammad through Hambali in Thailand. Hambali, whose real name is Riduan Isamuddin, was considered the operational head of the Al-Qaida-linked terrorist group Jemaah Islamiyah and was among South-East Asia's most wanted terrorists until his arrest in Thailand in August 2003.

2. Hambali used a trusted aide, Bashir bin Lap, and a cash courier from Kuala Lumpur to move US$ 25,000 by hand to Indonesian Zulkifli (Head of Jemaah Islamiyah's Philippines cell) in Cebu City in the Philippines. Zulkifli, who was arrested in Malaysia in 2003, used Abdullah in Cotabato City in the troubled Mindanao region to convert the United States currency to Philippines currency (1,313,615 pesos) and assist in its disbursement. It is alleged that following the currency conversion, Abdullah returned 650,000 pesos to Zulkifli who deposited some of the funds to an Allied Bank account in the name of Dorie Locracio and the remainder to fund bombing operations in cities and provinces of Mindanao.

3. Zulkifli instructed Abdullah to purchase a safe house (150,000 pesos), pay 60,000 pesos as a dowry to a woman he wished to marry known as Lily, and use the remainder to maintain his foreign exchange business which was to become a funding source for the Jemaah Islamiyah cell in Mindanao. Within the business 350,000 pesos was held as cash in hand and 103,615 pesos was deposited to a Philippine National Bank account in Cotabato.

4. When the Philippines National Police raided the safe house in October 2003, they found improvised explosive devices, bomb-making components and manuals for constructing biotoxic weapons. The investigation into Abdullah's financial links are continuing with the assistance of the Anti-Money Laundering Council as it suspects that Abdullah may have opened other accounts.

Sources: Press release by Defence Secretary Eduardo Ermita and Colonel Romeo Ricardo, Chief of the Anti-Terrorism Task Force Sanlahi, reported by Alcuin Papa, Anti-Terrorism Task Force of the Philippines briefing to the Monitoring Team

Annex V

Al-Qaida use of the Internet

1. The Monitoring Team has had a brief look at Al-Qaida-related material available online. The Internet offers an uncensored and instantaneous means of communication for Al-Qaida leaders and sympathizers wherever they are. Many Al-Qaida associates have a sophisticated understanding of the opportunities offered by the Internet to recruit new sympathizers and to guide them towards violence. The Internet is ideally suited to Al-Qaida's asymmetric approach, allowing a small number of individuals to reach a global audience.

2. Al-Qaida associates and sympathizers conduct information campaigns via web sites, discussion groups, group mailings and message boards to influence opinion and encourage people to seek further information. With little effort, a casual Internet user may then access discussion groups that provide, for example, audio, video and text versions of Osama bin Laden's messages, as well as the speeches of other extremists. They can then request mailings of online periodicals such as the Voice of Jihad, which carries news of Al-Qaida activity in the Arabian peninsula.

3. While this is legal in almost all countries, the danger lies in the next step, when Al-Qaida recruiters encourage their online contacts to follow them to chat rooms and into private dialogues in which they encourage their participation in illegal activities. There are many comparatively secure ways to communicate via the Internet and the recruiter can subsequently arrange meetings in person with little risk. From there it takes little to guide the new recruit to places for further indoctrination.

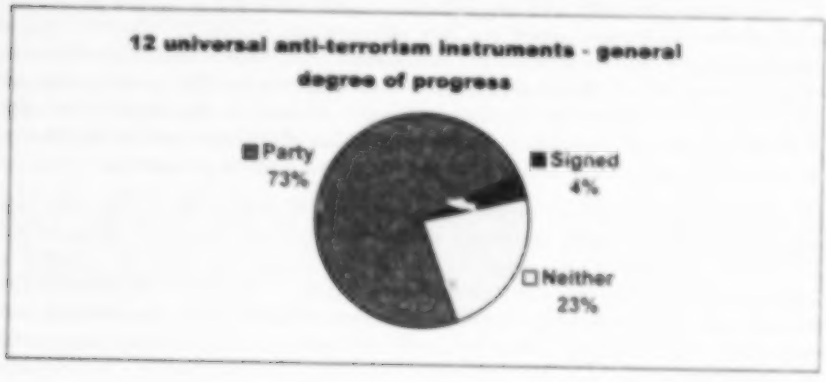
4. But indoctrination and even some forms of paramilitary training are also available on the Internet. Operatives can learn techniques such as the manufacture of explosives, the use of armaments, and ways to evade detection. These are provided by online publications such as Al-Battar,[a] a monthly manual published by Al-Qaida to train mujahedin to prepare for terrorism.

[a] Al-Battar is an alias of Sheikh Yousef Al-Ayyiri, formerly an Al-Qaida leader in Saudi Arabia and Osama bin Laden's personal bodyguard, who was killed in 2004 in a clash with Saudi Arabian security forces.

Annex VI

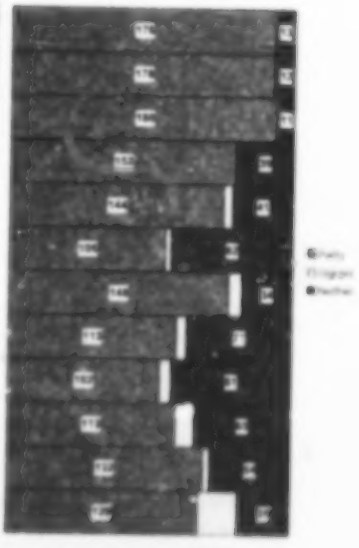
Percentage of Member States party to the 12 universal anti-terrorism instruments

Based on information made available by the depositary bodies, as of 1 November 2004, 58 States (30 per cent) have become party to all 12 universal anti-terrorism instruments and fully comply with Security Council resolution 1373 (2001), paragraph 3. Furthermore, 99 States (52 per cent) are party to 10 or more. Only five States (3 per cent) are not party to any of the instruments.



Number and percentage of Member States party to each instrument

	Universal anti-terrorism instruments	Party	Signed	Neither
1	Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963)	68% 178	6% 5	7% 13
2	Convention for the Suppression of Unlawful Seizure of Aircraft (1970)	68% 178	1% 1	6% 12
3	Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)	68% 180	1% 1	6% 11
4	Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons including Diplomatic Agents (1973)	69% 132	5% 1	25% 18
5	International Convention against the Taking of Hostages (1979)	70% 144	3% 6	21% 41
6	Convention on the Physical Protection of Nuclear Material (1980)	55% 105	2% 4	43% 82
7	Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988)	71% 140	5% 9	18% 34
8	Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)	69% 113	4% 7	27% 44
9	Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (1988)	53% 102	4% 8	42% 81
10	Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991)	69% 113	7% 12	24% 40
11	International Convention for the Suppression of Terrorist Bombings (1997)	69% 130	3% 5	28% 54
12	International Convention for the Suppression of the Financing of Terrorism (1999)	69% 129	14% 27	18% 35



From this data it is possible to conclude several points:

- The instruments dealing with civil aviation (1, 2, 3 and 7) are the most widely adopted.
- The instruments dealing with maritime safety (8 and 9) have the lowest participation rate.
- The International Convention for the Suppression of Financing of Terrorism (12) has by far the largest amount of signatories that have not adopted the instrument.
- Universal anti-terrorism instruments relating to terrorist bombings (10 and 11) have a below-average participation rate.

Annex VII

State-by-State breakdown of participation in the 12 universal anti-terrorism instruments

Member State/instrument	*1. Offences and Certain Other Acts Committed on Board Aircraft (1963)*	*2. Suppression of Unlawful Seizure of Aircraft (1970)*	*3. Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)*	*4. Prevention and Punishment of Crimes against Internationally Protected Persons (1973)*	*5. Against the Taking of Hostages (1979)*	*6. Physical Protection of Nuclear Material (1980)*	*7. Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988)*	*8. Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)*	*9. Suppression of Unlawful Acts against the Safety of Fixed Platforms (1988)*	*10. Marking of Plastic Explosives for the Purpose of Detection (1991)*	*11. Suppression of Terrorist Bombings (1997)*	*12. Suppression of the Financing of Terrorism (1999)*	*Number of instruments party to*
Afghanistan	P	P	P	P	P	P	–	P	P	P	P	P	11
Albania	P	P	P	P	P	P	P	P	P	P	P	P	12
Algeria	P	P	P	P	P	P	P	P	–	P	P	P	11
Andorra	–	P	–	P	P	–	–	–	–	–	P	Signed	4
Angola	P	P	P	–	–	–	–	–	–	–	–	–	3
Antigua and Barbuda	P	P	P	P	P	P	–	–	–	–	–	P	7
Argentina	P	P	P	P	P	P	P	P	P	P	P	Signed	11
Armenia	P	P	P	P	P	P	P	–	–	–	P	P	9
Australia	P	P	P	P	P	P	P	P	P	–	P	P	11
Austria	P	P	P	P	P	P	P	P	P	P	P	P	12
Azerbaijan	P	P	P	P	P	P	P	P	P	P	P	P	12
Bahamas	P	P	P	P	P	–	–	Signed	Signed	–	–	Signed	5
Bahrain	P	P	P	–	–	–	P	–	–	P	P	P	7
Bangladesh	P	P	P	–	–	–	–	–	–	–	–	–	3
Barbados	P	P	P	P	P	–	P	P	P	P	P	P	11
Belarus	P	P	P	P	P	P	P	P	P	P	P	P	12
Belgium	P	P	P	P	P	P	P	Signed	Signed	Signed	Signed	P	8
Belize	P	P	P	P	P	–	P	–	–	Signed	P	P	8
Benin	P	P	P	P	P	–	P	–	–	P	P	P	9
Bhutan	P	P	P	P	P	–	–	–	–	–	–	P	6
Bolivia	P	P	P	P	P	P	P	P	P	P	P	P	12
Bosnia and Herzegovina	P	P	P	P	P	P	P	P	P	P	P	P	12
Botswana	P	P	P	P	P	P	P	P	P	P	P	P	12
Brazil	P	P	P	P	P	P	P	Signed	Signed	P	P	Signed	9
Brunei Darussalam	P	P	P	P	P	–	P	P	P	–	P	P	10
Bulgaria	P	P	P	P	P	P	P	P	P	P	P	P	12
Burkina Faso	P	P	P	P	P	P	P	P	P	P	P	P	12
Burundi	P	Signed	P	P	–	–	–	–	–	–	Signed	Signed	3
Cambodia	P	P	P	–	–	–	P	–	–	–	–	Signed	4
Cameroon	P	P	P	P	P	P	P	–	–	P	–	–	8
Canada	P	P	P	P	P	P	P	P	P	P	P	P	12

Member State/instrument	1. Offences and Certain Other Acts Committed on Board Aircraft (1963)	2. Suppression of Unlawful Seizure of Aircraft (1970)	3. Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)	4. Prevention and Punishment of Crimes against Internationally Protected Persons (1973)	5. Against the Taking of Hostages (1979)	6. Physical Protection of Nuclear Material (1980)	7. Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988)	8. Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)	9. Suppression of Unlawful Acts against the Safety of Fixed Platforms (1988)	10. Marking of Plastic Explosives for the Purpose of Detection (1991)	11. Suppression of Terrorist Bombings (1997)	12. Suppression of the Financing of Terrorism (1999)	Number of instruments party to
Cape Verde	P	P	P	P	P	–	P	P	P	P	P	P	11
Central African Rep.	P	P	P	–	–	–	P	–	–	–	–	Signed	4
Chad	P	P	P	–	–	–	–	–	–	–	–	–	3
Chile	P	P	P	P	P	P	P	P	P	P	P	P	12
China	P	P	P	P	P	P	P	P	P	–	P	Signed	10
Colombia	P	P	P	P	–	P	P	–	–	Signed	P	P	8
Comoros	P	P	P	P	P	–	–	–	–	–	P	P	7
Congo	P	P	P	–	–	–	Signed	–	–	–	–	Signed	3
Costa Rica	P	P	P	P	P	P	P	P	P	Signed	P	P	11
Côte d'Ivoire	P	P	P	P	P	–	Signed	–	–	Signed	P	P	7
Croatia	P	P	P	P	P	P	P	–	–	–	–	P	8
Cuba	P	P	P	P	P	P	P	P	P	P	P	P	12
Cyprus	P	P	P	P	P	P	P	P	P	P	P	P	12
Czech Rep.	P	P	P	P	P	P	P	Signed	Signed	P	P	Signed	9
DPR of Korea	P	P	P	P	P	–	P	–	–	–	–	Signed	6
DR of Congo	P	P	P	P	Signed	P	Signed	–	–	–	–	Signed	5
Denmark	P	P	P	P	P	P	P	P	P	P	P	P	12
Djibouti	P	P	P	P	P	–	P	P	P	P	P	Signed	10
Dominica	–	–	–	P	P	–	–	P	P	–	P	P	6
Dominican Republic	P	P	P	P	Signed	Signed	–	–	–	–	–	Signed	4
Ecuador	P	P	P	P	P	P	P	P	P	P	–	P	11
Egypt	P	P	P	P	P	–	P	P	P	P	Signed	Signed	9
El Salvador	P	P	P	P	P	–	P	P	P	P	P	P	11
Equatorial Guinea	P	P	P	P	P	P	P	P	P	–	P	P	11
Eritrea	–	–	–	–	–	–	–	–	–	P	–	–	1
Estonia	P	P	P	P	P	P	P	P	P	P	P	P	12
Ethiopia	P	P	P	P	P	–	P	–	–	–	P	–	7
Fiji	P	P	P	–	–	–	P	–	–	–	–	–	4
Finland	P	P	P	P	P	P	P	P	P	P	P	P	12
France	P	P	P	P	P	P	P	P	P	P	P	P	12
Gabon	P	P	P	P	Signed	–	P	–	–	Signed	–	Signed	5
Gambia	P	P	P	–	–	–	P	P	–	P	–	–	6
Georgia	P	P	P	P	P	–	P	–	–	P	P	P	9
Germany	P	P	P	P	P	P	P	P	P	P	P	P	12
Ghana	P	P	P	P	P	P	P	P	P	P	P	P	12
Greece	P	P	P	P	P	P	P	P	P	P	P	P	12
Grenada	P	P	P	P	P	P	P	P	P	P	P	P	12

Member State/instrument	1. Offences and Certain Other Acts Committed on Board Aircraft (1963)	2. Suppression of Unlawful Seizure of Aircraft (1970)	3. Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)	4. Prevention and Punishment of Crimes against Internationally Protected Persons (1973)	5. Against the Taking of Hostages (1979)	6. Physical Protection of Nuclear Material (1980)	7. Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988)	8. Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)	9. Suppression of Unlawful Acts against the Safety of Fixed Platforms (1988)	10. Marking of Plastic Explosives for the Purpose of Detection (1991)	11. Suppression of Terrorist Bombings (1997)	12. Suppression of the Financing of Terrorism (1999)	Number of instruments party to
Guatemala	P	P	P	P	P	P	P	–	–	P	P	P	10
Guinea	P	P	P	–	–	–	P	–	–	P	P	P	7
Guinea-Bissau	–	P	P	–	–	–	–	–	–	Signed	–	Signed	2
Guyana	P	P	P	–	–	–	P	P	P	–	–	–	6
Haiti	P	P	P	P	P	Signed	–	–	–	–	–	–	5
Honduras	P	P	P	P	P	P	P	–	–	P	P	P	10
Hungary	P	P	P	P	P	P	P	P	P	P	P	P	12
Iceland	P	P	P	P	P	P	P	P	P	P	P	P	12
India	P	P	P	P	P	P	P	P	P	P	P	P	12
Indonesia	P	P	P	–	–	P	Signed	–	–	–	–	Signed	4
Iran (Islamic Rep of)	P	P	P	P	–	–	P	–	–	–	–	–	5
Iraq	P	P	P	P	Signed	–	P	Signed	Signed	–	–	–	5
Ireland	P	P	P	–	–	P	P	P	P	P	Signed	Signed	8
Israel	P	P	P	P	Signed	P	P	Signed	Signed	Signed	P	P	8
Italy	P	P	P	P	P	P	P	P	P	P	P	P	12
Jamaica	P	P	P	P	Signed	–	Signed	–	–	–	–	Signed	4
Japan	P	P	P	P	P	P	P	P	P	P	P	P	12
Jordan	P	P	P	P	P	–	P	P	P	P	–	P	10
Kazakhstan	P	P	P	P	P	–	P	P	P	P	P	P	11
Kenya	P	P	P	P	P	P	P	P	P	P	P	P	12
Kiribati	–	–	–	–	–	–	–	–	–	–	–	–	0
Kuwait	P	P	P	P	P	P	P	P	P	P	P	–	11
Kyrgyzstan	P	P	P	P	P	–	P	–	–	P	P	P	9
Lao PDR	P	P	P	P	P	–	P	–	–	–	P	–	7
Latvia	P	P	P	P	P	P	P	P	P	P	P	P	12
Lebanon	P	P	P	P	P	P	P	P	P	P	–	–	10
Lesotho	P	P	P	–	P	–	–	–	–	–	P	P	6
Liberia	P	P	P	P	P	–	P	P	P	–	P	P	10
Libyan AJ	P	P	P	P	P	P	P	P	P	P	P	P	12
Liechtenstein	P	P	P	P	P	P	P	P	P	P	P	P	12
Lithuania	P	P	P	P	P	P	P	P	P	P	P	P	12
Luxembourg	P	P	P	–	P	P	P	–	–	–	P	P	8
Madagascar	P	P	P	P	P	P	P	–	–	P	P	P	10
Malawi	P	P	P	P	P	–	Signed	–	–	–	P	P	7
Malaysia	P	P	P	P	–	–	Signed	–	–	–	P	–	5
Maldives	P	P	P	P	–	–	P	–	–	P	P	P	8

Member State/instrument	*1. Offences and Certain Other Acts Committed on Board Aircraft (1963)*	*2. Suppression of Unlawful Seizure of Aircraft (1970)*	*3. Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)*	*4. Prevention and Punishment of Crimes against Internationally Protected Persons (1973)*	*5. Against the Taking of Hostages (1979)*	*6. Physical Protection of Nuclear Material (1980)*	*7. Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988)*	*8. Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)*	*9. Suppression of Unlawful Acts against the Safety of Fixed Platforms (1988)*	*10. Marking of Plastic Explosives for the Purpose of Detection (1991)*	*11. Suppression of Terrorist Bombings (1997)*	*12. Suppression of the Financing of Terrorism (1999)*	*Number of instruments party to*
Mali	P	P	P	P	P	P	P	P	P	P	P	P	12
Malta	P	P	P	P	P	P	P	P	P	P	P	P	12
Marshall Islands	P	P	P	P	P	P	P	P	P	P	P	P	12
Mauritania	P	P	P	P	P	–	P	–	–	–	P	P	8
Mauritius	P	P	P	P	P	–	P	P	P	Signed	P	Signed	9
Mexico	P	P	P	P	P	P	P	P	P	P	P	P	12
Micronesia (Fed. States of)	–	–	P	P	P	–	P	P	–	–	P	P	7
Monaco	P	P	P	P	P	P	P	P	P	P	P	P	12
Mongolia	P	P	P	P	P	P	P	–	–	P	P	P	10
Morocco	P	P	P	P	–	P	P	P	P	P	–	P	10
Mozambique	P	P	P	P	P	P	P	P	P	–	P	P	11
Myanmar	P	P	P	P	P	–	P	P	P	P	P	Signed	10
Namibia	–	–	–	–	–	P	–	P	–	–	–	Signed	2
Nauru	P	P	P	–	–	–	–	–	–	–	–	Signed	3
Nepal	P	P	P	P	P	–	–	–	–	–	Signed	–	5
Netherlands	P	P	P	P	P	P	P	P	P	P	P	P	12
New Zealand	P	P	P	P	P	P	P	P	P	P	P	P	12
Nicaragua	P	P	P	P	P	–	P	–	–	Signed	P	P	8
Niger	P	P	P	P	P	Signed	Signed	–	–	–	P	P	7
Nigeria	P	P	P	–	–	–	P	P	Signed	P	–	P	7
Norway	P	P	P	P	P	P	P	P	P	P	P	P	12
Oman	P	P	P	P	P	P	P	P	P	P	–	–	10
Pakistan	P	P	P	P	P	P	P	P	F	Signed	P	–	10
Palau	P	P	P	P	P	–	P	P	P	P	P	P	11
Panama	P	P	P	P	P	P	P	P	P	P	P	P	12
Papua New Guinea	P	P	P	P	P	–	P	–	–	–	P	P	8
Paraguay	P	P	P	P	P	P	P	–	–	P	P	Signed	9
Peru	P	P	P	P	P	P	P	P	P	P	P	P	12
Philippines	P	P	P	P	P	P	P	P	P	P	P	P	12
Poland	P	P	P	P	P	P	P	P	P	–	P	P	11
Portugal	P	P	P	P	P	P	P	P	P	P	P	P	12
Qatar	P	P	P	P	–	P	–	P	P	P	–	–	8
Rep. of Korea	P	P	P	P	P	P	P	P	P	P	P	P	12
Rep. of Moldova	P	P	P	P	P	P	P	–	–	P	P	P	10
Romania	P	P	P	P	P	P	P	P	P	P	P	P	12

Member State/instrument	1. Offences and Certain Other Acts Committed on Board Aircraft (1963)	2. Suppression of Unlawful Seizure of Aircraft (1970)	3. Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)	4. Prevention and Punishment of Crimes against Internationally Protected Persons (1973)	5. Against the Taking of Hostages (1979)	6. Physical Protection of Nuclear Material (1980)	7. Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988)	8. Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)	9. Suppression of Unlawful Acts against the Safety of Fixed Platforms (1988)	10. Marking of Plastic Explosives for the Purpose of Detection (1991)	11. Suppression of Terrorist Bombings (1997)	12. Suppression of the Financing of Terrorism (1999)	Number of instruments party to
Russian Federation	P	P	P	P	P	P	P	P	P	Signed	P	P	11
Rwanda	P	P	P	P	P	–	P	–	–	–	P	P	8
Saint Kitts and Nevis	–	–	–	–	P	–	–	P	–	P	P	P	5
Saint Lucia	P	P	P	–	–	–	P	P	P	–	–	–	6
Saint Vincent and the Grenadines	P	P	P	P	P	–	P	P	P	–	–	P	9
Samoa	P	P	P	–	–	–	P	P	–	P	–	P	7
San Marino	–	–	–	–	–	–	–	–	–	–	P	P	2
Sao Tome and Ppe	–	–	–	–	–	–	–	–	–	–	–	–	0
Saudi Arabia	P	P	P	P	P	–	P	Signed	Signed	P	–	Signed	7
Senegal	P	P	P	–	P	P	P	P	P	P	P	P	11
Serbia and Montenegro	P	P	P	P	P	P	P	P	–	–	P	P	10
Seychelles	P	P	P	P	P	P	P	P	P	P	P	P	12
Sierra Leone	P	P	P	P	P	–	–	–	–	–	P	P	7
Singapore	P	P	P	–	–	–	P	P	–	P	–	P	7
Slovakia	P	P	P	P	P	P	P	P	P	P	P	P	12
Slovenia	P	P	P	P	P	P	P	P	P	P	P	P	12
Solomon Islands	P	–	P	–	–	–	–	–	–	–	–	–	2
Somalia	–	–	–	–	–	–	–	–	–	–	–	Signed	0
South Africa	P	P	P	P	P	Signed	P	–	–	P	P	P	9
Spain	P	P	P	P	P	P	P	P	P	P	P	P	12
Sri Lanka	P	P	P	P	P	–	P	P	–	P	P	P	10
Sudan	P	P	P	P	P	P	P	P	P	P	P	P	12
Suriname	P	P	P	–	P	–	P	–	–	P	–	–	6
Swaziland	P	P	P	P	P	P	–	P	P	P	P	P	11
Sweden	P	P	P	P	P	P	P	P	P	Signed	P	P	11
Switzerland	P	P	P	P	P	P	P	P	P	P	P	P	12
Syrian Arab Rep.	P	P	P	P	–	–	P	P	P	P	–	–	8
Tajikistan	P	P	P	P	P	P	P	–	–	–	P	P	9
Thailand	P	P	P	–	–	–	P	–	–	–	–	P	5
The former Yugoslav Rep. of Macedonia	P	P	P	P	P	P	P	–	–	P	P	P	10
Timor-Leste	–	–	–	–	–	–	–	–	–	–	–	–	0
Togo	P	P	P	P	P	–	P	P	P	P	P	P	11
Tonga	P	P	P	P	P	P	P	P	P	P	P	P	12
Trinidad and Tobago	P	P	P	P	P	P	P	P	P	P	P	–	11

Member State instrument	1. Offences and Certain Other Acts Committed on Board Aircraft (1963)	2. Suppression of Unlawful Seizure of Aircraft (1970)	3. Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)	4. Prevention and Punishment of Crimes against Internationally Protected Persons (1973)	5. Against the Taking of Hostages (1979)	6. Physical Protection of Nuclear Material (1980)	7. Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988)	8. Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)	9. Suppression of Unlawful Acts against the Safety of Fixed Platforms (1988)	10. Marking of Plastic Explosives for the Purpose of Detection (1991)	11. Suppression of Terrorist Bombings (1997)	12. Suppression of the Financing of Terrorism (1999)	Number of instruments party to
Tunisia	P	P	P	P	P	P	P	P	P	P	–	P	11
Turkey	P	P	P	P	P	P	P	P	P	P	P	P	12
Turkmenistan	P	P	P	P	P	–	P	P	P	–	P	–	9
Tuvalu	–	–	–	–	–	–	–	–	–	–	–	–	0
Uganda	P	P	P	P	P	P	P	P	–	P	P	P	11
Ukraine	P	P	P	P	P	P	P	P	P	P	P	P	12
United Arab Emirates	P	P	P	P	P	P	P	–	–	P	–	–	8
United Kingdom	P	P	P	P	P	P	P	P	P	P	P	P	12
UR Tanzania	P	P	P	–	P	–	P	–	–	P	P	P	8
United States of America	P	P	P	P	P	P	P	P	P	P	P	P	12
Uruguay	P	P	P	P	P	P	P	P	P	P	P	P	12
Uzbekistan	P	P	P	P	P	P	P	P	P	P	P	P	12
Vanuatu	P	P	P	–	–	–	–	P	P	–	–	–	5
Venezuela (Bolivarian Rep. of)	P	P	P	–	P	–	Signed	–	–	–	P	P	6
Viet Nam	P	P	P	P	–	–	P	P	P	–	–	P	8
Yemen	P	P	P	P	P	–	–	P	P	–	P	–	8
Zambia	P	P	P	–	–	–	–	–	–	P	–	–	4
Zimbabwe	P	P	P	–	–	–	–	–	–	–	–	–	3

P = State is party to the instrument.

The information in the above chart was collated from depository sources on 1 November 2004 by the Monitoring Team. While the 12 universal anti-terrorism instruments have a wider counter-terrorism aim, they are pertinent to combating Al-Qaida and its associates. The information portrayed herein was provided by the depository bodies of each convention (i.e., the Office of Legal Affairs of the Secretariat, the International Civil Aviation Organization, the International Maritime Organization and the International Atomic Energy Agency). For more information, see the Office of Legal Affairs web site for links to the depository bodies: untreaty.un.org/English/Terrorism.asp.

United Nations S/2005/84

Security Council

Distr.: General
11 February 2005

Original: English

Letter dated 8 February 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

Joint statement of the fourth special meeting of the Counter-Terrorism Committee with international, regional and subregional organizations, held in Almaty, Kazakhstan, in January 2005

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrey I. **Denisov**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

05-23609 (E) 150205

Annex

Joint statement issued on 27 January 2005 of the fourth special meeting of the Counter-Terrorism Committee with international, regional and subregional organizations in Almaty, Kazakhstan

The participating representatives of the international, regional and subregional organizations and bodies, as well as bodies of the United Nations system, at the fourth special meeting of the Counter-Terrorism Committee with international, regional and subregional organizations, on 26 and 27 January 2005,

Expressing appreciation to the Commonwealth of Independent States for acting as co-host for this meeting and to the Government of Kazakhstan for the facilities it has provided,

Noting with great concern the acts of terrorism committed since the last special meeting in Vienna on 11 and 12 March 2004,

Reaffirming the imperative to combat terrorism in all its forms and manifestations,

Noting with appreciation the many anti-terrorism action plans adopted by the various international, regional and subregional organizations and bodies, as well as bodies of the United Nations system, in the global effort to combat international terrorism,

Bearing in mind the obligations of all Member States of the United Nations to implement fully Security Council resolution 1373 (2001) and other relevant Security Council resolutions,

Acknowledging the central role of the Counter-Terrorism Committee, including its Executive Directorate, which was established by Security Council resolution 1535 (2004), in the global effort to combat terrorism,

Emphasizing that becoming a party to and implementing the twelve anti-terrorism international conventions and protocols, whether or not a State is a party to regional conventions related to terrorism, would enhance the global effort to combat terrorism, increase each party's capacity to combat terrorism and amplify the dialogue among States, thus contributing to the international cooperation that is so necessary to effective counter-terrorism,

Noting also that universal adherence to and full implementation of multilateral treaties aimed at preventing the proliferation of nuclear, biological or chemical weapons complement international anti-terrorist efforts,

Reiterating the commitments undertaken in the declaration adopted on 12 March 2004 at the last special meeting of the Counter-Terrorism Committee with international, regional and subregional organizations, held in Vienna,

Agree as follows:

1. Anti-terrorism action plans should include programmes for encouraging States to become parties to, and implement in their domestic laws, the twelve international conventions and protocols on the prevention and suppression of

terrorism, in compliance with international law, in particular international human rights, refugee and humanitarian law;

2. Anti-terrorism action plans should include, when appropriate and within the respective mandates and competences of the relevant organizations, the conduct of full assessments of those Member States for which those action plans are designed, and such assessments should be undertaken in close coordination with the Counter-Terrorism Committee, including its Executive Directorate in order to ensure completeness and usefulness and to avoid duplication of effort;

3. International, regional and subregional organizations and bodies, as well as bodies of the United Nations system, will explore ways to enter into special cooperation arrangements with the Executive Directorate in particular in order to implement the commitments undertaken in the declaration adopted in Vienna on 12 March 2004, especially with respect to closer coordination and the exchange of information.